IN SENATE OF THE UNITED STATES.

February 9, 1849.

Mr. Johnson, of Louisiana, moved the following resolution, which was adopted:

Resolved, That such of the acts of Congress relative to pensions, and the Executive regulations touching the subject, as have been deemed necessary by the Committee on Pensions to be published, as well as the laws relating to bounty land, containing about ninety-four pages, be printed under the direction of the Commissioner of Pensions; and that six thousand additional copies be printed for the use of the Senate, and one thousand for the use of the Commissioner of Pensions.

PENSION LAWS NOW IN FORCE,

EMBRACING, ALSO,

Executive regulations touching the subject; as well as the laws relative to bounty lands, &c.

CHAPTER I.

Rules of evidence relative to invalid pensioners.

Any officer, non-commissioned officer, musician, or private, who has been wounded or disabled since the revolutionary war, while in the line of his duty in the actual service of the United States, whether he belong to the military establishment or to the militia, or to any volunteer corps called into service under the authority of the United States,* may be placed on the pension-list of the United States, at such rate of compensation and under such regulations as are prescribed by the act entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war," passed April the tenth, one thousand eight hundred and six. In substantiating such claim, the following rules and regulations shall be complied with, that is to say: all evidence shall be taken on oath or affirmation, before the judge of the district, or one of the judges of the State or Territory† in which such claimant resides, or before some person specially authorized by commission from said

* Act April 25, 1808, sec. 4. † Act April 18, 1814, sec. 3.

judge. Decisive disability, the effect of a known wound or injury received while in the actual service and line of duty, must be proved by the affidavit of the commanding officer of the regiment, corps, company, ship, vessel, or craft, in which such claimant served, or of two other credible witnesses to the same effect, setting forth the time when, and place where, such known wound or injury was received, and particularly describing the same. The nature of such disability, and in what degree it prevents the claimant from obtaining his subsistence, must be proved by the affidavit of some reputable physician or surgeon, stating his opinion, either from his own knowledge and acquaintance with the claimant, or from an examination of such claimant, on oath or affirmation, which, when necessary for that purpose, shall be administered to said claimant by said judge or commissioner; and the said physician or surgeon, in his affidavit, shall particularly describe the wound or injury from whence the disability appears to be derived. Every claimant must prove, by at least one credible witness, that he continued in service during the whole time for which he was detached, or for which he engaged, unless he was discharged, or left the service in consequence of some derangement of the army, or in consequence of his disability resigned his commission, or was, after his disability, in captivity or on parole; and, in the same manner, must prove his mode of life and employment since he left the service and the place or places where he has since resided, and his place of residence at the time of taking such testimony. Every claimant shall, by his affidavit, give satisfactory reasons why he did not make application for a pension before, and that he is not on the pension list of any State; and the judge or commissioner shall certify, in writing, his opinion of the credibility of the witnesses whose affidavits he shall take, in all those cases where, by this act, it is said the proof shall be made by a credible witness or witnesses; and, also, that the examining physician or surgeon is reputable in his profession. The said judge of the district, or person by him commissioned as aforesaid, shall transmit a list of such claims, accompanied by the evidence, affidavits, certificates, and proceedings had thereon, in pursuance of this act, noting particularly the day on which the testimony was closed before him, to the Secretary for the Department of War, &c. And it shall be the duty of the judge or commissioner aforesaid to permit each claimant to take a transcript of the evidence and proceedings had respecting his claim, if he shall desire it, and to certify the same to be correct. An increase of pension may be allowed to persons already placed upon the pension-list of the United States, for disabilities caused by known wounds received during the revolutionary war, in all cases where justice shall require the same: *Provided*, That the increase, when added to the pension formerly received, shall in no case exceed a full pension. Every invalid making application for this purpose, shall be examined by two reputable physicians or surgeons, to be authorized by commission from the judge of the district where such invalid resides, who shall report in writing, on oath or affirmation, their opinion of the nature of the applicant's disability, and in what degree it prevents him from obtaining a subsistence by manual labor; which report shall be transmitted by said physicians or surgeons to the Secretary for the Department of War.

CHAPTER II.

Pensioners in States and Territories where there are no pension agents are to be paid at the seat of government.

Every pension, or arrearage of pension,* that shall be due on the third day of March, one thousand eight hundred and nine, or that may thereafter become due, to any officer or soldier residing in either of the United States, or the Territories thereof, in which there hath not been appointed an agent for the payment of pensions, shall be paid at the seat of the government of the United States, by the Secretary of the War Department; and the name of the pensioner shall, on his application to the Secretary of War, be transferred from the books of the State in which it was originally registered, to a register to be opened for that purpose at the War Office of the United States.

CHAPTER III.

Provisions for rangers disabled in the service.

The officers, non-commissioned officers,† and privates raised pursuant to this act, shall be entitled to the like compensation in case of disability, by wounds or otherwise incurred in the service, as officers, non-commissioned officers, and privates in the present military establishment, and with them shall be subject to the rules and articles of war which have been established, or may hereafter by law be established; and the provisions of the act entitled "An act fixing the military peace establishment of the United States," so far as they may be applicable, shall be extended to all persons, matters, and things, within the intent and meaning of this act, in the same manner as if they were inserted at large in the same. This act shall take effect and be in force from and after the passage thereof.

CHAPTER IV.

Pensions to invalids of the additional forces of 1812.

If any officer, non-commissioned officer,‡ musician, or private shall be disabled by wounds, or otherwise, while in the line of his duty, in public service, he shall be placed on the list of invalids of the United States, at such rate of pension and under such regulations as are or may be directed by law: *Provided, always*, That the compensation to be allowed for such wounds or disabilities to a commissioned officer shall not exceed, for the highest rate of disability, half the monthly pay of such officer at the time of his being disabled or wounded, and that no officer shall receive more than the half pay of a lieutenant colonel; and that the rate of compensa-

* Act January 7, 1809. † Act January 2, 1812, sec. 4. ‡ Act January 11, 1812, sec. 14.

tion to non-commissioned officers, musicians, and privates shall not exceed five dollars per month: *And provided, also,* That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

CHAPTER V.

Volunteers disabled in the service to be pensioned.

If any officer, non-commissioned officer,* musician, or private shall be disabled by wounds, or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalid pensioners of the United States, at such rate of pension and under such regulations as are or may be directed by law: *Provided, always,* That the compensation to be allowed for such wounds or disabilities, to a commissioned officer, shall not exceed, for the highest rate of disability, half the monthly pay of such officer at the time of his being wounded or disabled, and that no officer shall receive more than the half pay of a lieutenant colonel; and that the rate of pension to non-commissioned officers, musicians, and privates shall not exceed five dollars per month: *And provided, also,* That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

CHAPTER VI.

Provision made for the volunteers and militia who served in the campaign on the Wabash, in 1811.

The officers, according to the rank assigned them by Governor Harrison,† and which they held on the seventh day of November, one thousand eight hundred and eleven, the non-commissioned officers and soldiers of the volunteers and militia, and the legal representatives of those who were killed or died of their wounds, composing the army that served in the late campaign on the Wabash against the hostile Indians, shall receive the same compensation which is allowed by law to the militia of the United States, when called into the actual service of the United States. The officers, according to the rank which they held as aforesaid, the non-commissioned officers and soldiers of the volunteers or militia who served in the said campaign, and who were killed or died of wounds received in said service, leaving a widow, or, if no widow, shall have left a child or children under the age of sixteen years, such widow, or, if no widow, such child or children, shall be entitled to and receive the half of the monthly pay to which the deceased was entitled at the time of his death, or receiving the wound of which he died, for and during the term of five years; and, in case of the death or intermarriage of such widow before the expiration of the term of five years, the half pay for the remainder of

---

* Act February 6, 1812, sec. 5.

† Act 10th April, 1812, secs. 1, 2, 3.

the term shall go to the child or children of such deceased officer or soldier, whilst under the age of sixteen years; and, in like manner, the allowance to the child or children of such deceased, where there is no widow, shall be paid no longer than while there is a child or children under the age aforesaid: *Provided*, That no greater sum shall be allowed in any case to the widow, or to the child or children of any officer, than the half pay of a lieutenant colonel. Every officer, according to the rank which he held as aforesaid, non-commissioned officer and private, of the volunteers and militia who served in the said campaign, and who has been disabled by known wounds received in said service, shall be placed on the list of invalids of the United States, at such rate of pension as shall be directed by the President of the United States, upon satisfactory proof of such wound and disability being produced to the Secretary of War, agreeably to such rule as he may prescribe: *Provided*, That the rate of compensation for such wounds and disabilities shall never, for the highest disability, exceed half the monthly pay of such officer at the time of being so wounded or disabled; and that the rate of compensation to a non-commissioned officer and private shall never exceed five dollars per month; and all inferior disabilities shall entitle the person so disabled to receive a sum in proportion to the highest disability; but no pension of a commissioned officer shall be calculated at a higher rate than the half pay of a lieutenant colonel.

CHAPTER VII.

Pensions to invalids of the one year's men, and five years' half pay to widows in certain cases.

If any officer, non-commissioned officer,* musician, or private, shall be disabled by wounds or otherwise, while in the line of his duty, in public service, he shall be placed on the list of invalids of the United States, at such rate of pension, and under such regulations, as are or may be directed by law: *Provided, always*, That the compensation to be allowed for such wounds or disabilities to a commissioned officer shall not exceed, for the highest rate of disability, half the monthly pay of such officer at the time of his being disabled or wounded, and that no officer shall receive more than the half pay of a lieutenant colonel; and that the rate of compensation to non commissioned officers, musicians, and privates, shall not exceed five dollars per month: *And provided, also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability. If any commissioned officer shall, while in the service of the United States, die by reason of any wound received in actual service of the United States, and leave a widow, or, if no widow, a child or children under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to and receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years; but in case of the death or intermarriage of such widow before the expiration of the said term of five years, the half pay for the remainder of the time shall go to the child or children of such deceased officer: *Provided, always*, That such half pay shall cease on the decease of such child or children.

---

*Act January 29, 1813, secs. 10, 11.

CHAPTER VIII.

Invalids of certain troops for seacoast defence allowed pensions.

Each man enlisted under the authority* of this act shall be allowed the same bounty, in money and land, as is now by law allowed to men enlisted for five years, or during the war; and the officers, non commissioned officers, musicians, and privates, shall receive the same pay, clothing, subsistence, and forage, be entitled to the same benefits, be subject to the same rules and regulations, and be placed, in every respect, on the same footing, as the other regular troops of the United States.

CHAPTER IX.

Pensions to invalids of the peace establishment of 1815.

The several corps authorized by the act of 3d March, 1815, fixing the military peace establishment, consisting of artillery, infantry, and riflemen, shall be subject† to the rules and articles of war, be recruited in the same manner, and with the same limitations; and officers, non-commissioned officers, musicians, and privates, shall be entitled to the same provision for wounds and disabilities, the same provision for widows and children, and the same benefits and allowances in every respect not inconsistent with the provisions of this act, as are authorized by the act of sixteenth March, one thousand eight hundred and two, entitled "An act fixing the military peace establishment of the United States," and the act of the twelfth April, one thousand eight hundred and eight, entitled "An act to raise for a limited time an additional military force;" and the bounty to the recruit, and compensation to the recruiting officer, shall be the same as are allowed by the aforesaid act of the twelfth of April, one thousand eight hundred and eight.

CHAPTER X.

Widows of rangers, sea-fencibles, militia, and volunteers killed in the war of 1812, with Great Britain, allowed pensions.

When any officer‡ or private soldier of the militia, including rangers, sea-fencibles, and volunteers, or any non-commissioned officer, musician, or private, enlisted for either of the terms of one year or eighteen months, or any commissioned officer of the regular army, shall have died while in the service of the United States, during the late war, or in returning to his place of residence after being mustered out of service, or who shall have died at any time thereafter, in consequence of wounds received whilst in the service, and shall have left a widow, or, if no widow, a child or children under sixteen years of age, such widow, or, if no widow, such

---

* Act January 28, 1814, section 2. † Act March 3, 1815, section 7.
‡ Act 16th April, 1816, section 1.

child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years; and, in case of death or intermarriage of such widow before the expiration of said five years, the half pay for the remainder of the time shall go to the child or children of the said decedent: *Provided, always*, That the Secretary of War shall adopt such forms of evidence in applications under this act, as the President of the United States may prescribe: *Provided, also*, That the officers and private soldiers of the militia, as aforesaid, who have been disabled by wounds or otherwise, while in the service of the United States, in discharge of their duty during the late war, shall be placed on the list of pensioners, in the same manner as the officers and soldiers of the regular army, under such forms of evidence as the President of the United States may prescribe: *Provided, also*, That the provisions of this act shall not extend to any person embraced in the provision of an act entitled "An act to provide for the widows and orphans of militia slain, and for militia disabled, in the service of the United States," passed the second day of August, one thousand eight hundred and thirteen.

CHAPTER XI.

Increase of pension to every grade under that of captain.

All persons of the ranks hereinafter named, who are now on the military pension roll of the United States,* shall, from and after the passage of this act, be entitled to, and receive, for the disabilities of the highest degree, the following sums in lieu of those to which they are now entitled, to wit: a first lieutenant, seventeen dollars; a second lieutenant, fifteen dollars; a third lieutenant, fourteen dollars; an ensign, thirteen dollars; and a non-commissioned officer, musician, or private, eight dollars per month; and for disabilities of a degree less than the highest, a sum proportionably less. All persons of the aforesaid ranks, who may hereafter be placed on the military pension-roll of the United States, shall, according to their ranks and degrees of disabilities, be placed on at the aforesaid rates of pensions, in lieu of those heretofore established: *Provided*, That nothing herein contained shall be construed to lessen the pension of any person who, by special provision, is entitled to a higher pension than is herein provided.

CHAPTER XII.

Widows and orphans of rangers placed on an equal footing with those of the infantry.

The widows and children of soldiers of the militia,† the volunteers, the rangers, and the sea-fencibles, who served during the late war, and for whom half pay for five years was provided by an act passed on the six-

---

* Act 24th April, 1816, sections 1, 2.

† Act March 3, 1817, sections 1, 4.

teenth day of April, one thousand eight hundred and sixteen, entitled "An act making further provision for military services during the late war, and for other purposes," shall be placed on an equality as to their annual allowance; that is to say: such widows, and in case of no widow, such children, as may be embraced in the before-recited act, shall be entitled to receive (as the half pay to which they are entitled) at the rate of forty-eight dollars per annum, and no more; and the widows and children aforesaid, of the officers of the different corps aforesaid, shall be entitled to the half pay of the officers of the infantry; the widows and children of the non-commissioned officers of the rangers shall be placed on the same footing, as to half pay for five years, with the widows and children of the infantry.

CHAPTER XIII.

Time of commencement of pension in invalid cases.

The right any person now has,* or hereafter may acquire, to receive a pension in virtue of any law of the United States, shall be construed to commence at the time of completing his testimony pursuant to the act hereby revived and continued in force.

CHAPTER XIV.

Pension agents to give bonds in such penalty as the Secretary of War may direct.

The agents for the payment of pensions† to invalid pensioners of the United States, shall in future be required to give bonds, with two or more sureties, to be approved by the Secretary of the Department of War, in such penalty as he shall direct, for the faithful discharge of the duties confided to them respectively.

CHAPTER XV.

Pensions granted to all the officers who served to the end of the revolutionary war in the continental army.

Each of the surviving officers‡ of the army of the Revolution in the continental line, who was entitled to half pay by the resolve of October twenty-first, seventeen hundred and eighty, be authorized to receive, out of any money in the Treasury not otherwise appropriated, the amount of his full pay in said line, according to his rank in the line, to begin on the third day of March, one thousand eight hundred and twenty-six, and to continue during his natural life: *Provided*, That under this act no officer shall be entitled to receive a larger sum than the full pay of a captain in

---

* Act February 4, 1822, sec. 2. † Act February 4, 1822, sec. 3. ‡ Act 15th May, 1828.

said line. Whenever any of said officers has received money of the United States, as a pensioner, since the third day of March, one thousand eight hundred and twenty-six, aforesaid, the sum so received shall be deducted from what said officer would otherwise be entitled to under the first section of this act; and every pension to which said officer is now entitled shall cease after the passage of this act. Every surviving non-commissioned officer, musician, or private, in said army, who enlisted therein for and during the war, and continued in its service until its termination, and thereby became entitled to receive a reward of eighty dollars, under a resolve of Congress passed May fifteen, seventeen hundred and seventy-eight, shall be entitled to receive his full monthly pay in said service, out of any money in the treasury not otherwise appropriated, to begin on the third day of March, one thousand eight hundred and twenty-six, and to continue during his natural life: *Provided*, That no non-commissioned officer, musician, or private in said army, who is now on the pension-list of the United States, shall be entitled to the benefits of this act. The pay allowed by this act shall, under the direction of the Secretary of the Treasury, be paid to the officer or soldier entitled thereto, or to their authorized attorney, at such places and days as said Secretary may direct; and no foreign officer shall be entitled to said pay, nor shall any officer or soldier receive the same until he furnish to said Secretary satisfactory evidence that he is entitled to the same, in conformity to the provisions of this act; and the pay allowed by this act shall not, in any way, be transferable, or liable to attachment, levy, or seizure, by any legal process whatever, but shall inure wholly to the personal benefit of the officer or soldier entitled to the same by this act. So much of said pay as accrued by the provisions of this act before the third day of March, eighteen hundred and twenty-eight, shall be paid to the officers and soldiers entitled to the same, as soon as may be, in the manner and under the provisions before mentioned; and the pay which shall accrue after said day shall be paid semi-annually, in like manner and under the same provisions.

CHAPTER XVI.

The widow or children to receive the balance due in the case of a deceased pensioner.

In case of the death* of any invalid pensioner before the certificate of the continuance of his disability, required by the act entitled "An act regulating the payments to invalid pensioners," passed March third, one thousand eight hundred and nineteen, was obtained, it shall be lawful for the Secretary of War, and he is hereby directed, to pay to the legal representatives of such deceased invalid the arrears of pension due at the time of his death, at the rate at which it was fixed at his last examination: *Provided*, Such last examination was within two years from the time of his death. Whenever any revolutionary pensioner shall die, the Secretary of War shall cause to be paid the arrears of pension due to the said pensioner at the time of his death; and all payments under this act shall be made to the widow of the deceased pensioner, or to her attorney; or, if he

---

* Act 2d March, 1829.

left no widow, or she be dead, to the children of the pensioner, or to their guardian, or his attorney; and if no child or children, then to the legal representatives of the deceased. In all cases of applications for pensions for wounds received in the revolutionary war, the testimony to establish the facts may be authenticated in the same manner with those who apply for pensions for wounds received in the late war with Great Britain.

CHAPTER XVII.

An annual report to be made to Congress of all rejected claims to pensions.

The heads of departments who may severally be* charged with the administration of the pension laws of the United States of America, be, and they hereby are respectively, directed and required, as soon as may be after the opening of each session of Congress, to present to the Senate and House of Representatives a several list of such persons, whether revolutionary, invalid, or otherwise, as shall have made application for a pension, or an increase of pension, and as, in their opinion, respectively ought to be placed on the pension roll, or otherwise provided for, and for doing which they have no sufficient power or authority, with the names and residence of such persons, the capacity in which they served, the degree of relief proposed, and a brief statement of the grounds thereof, to the end that Congress may consider the same.

CHAPTER XVIII.

Pensioners under the act of May 15, 1828, not required to relinquish invalid pensions, if they are disabled.

The second section of the act† entitled "An act for the relief of certain surviving officers and soldiers of the army of the Revolution," approved the fifteenth day of May, one thousand eight hundred and twenty-eight, shall not be construed to embrace invalid pensioners; and the pensions of invalid soldiers shall not be deducted from the amount receivable by them under the said act.

CHAPTER XIX.

Provision for all who served six months either in the army, militia, or navy, during the Revolution.

Each of the surviving officers,‡ non-commissioned officers, musicians, soldiers, and Indian spies, who shall have served in the continental line or

---

* Resolution 29th May, 1830. † Act May 31, 1830. ‡ Act June 7, 1832.

State troops, volunteers or militia, at one or more terms, a period of two years, during the war of the Revolution, and who are not entitled to any benefit under the act for the relief of certain surviving officers and soldiers of the Revolution, passed the fifteenth day of May, eighteen hundred and twenty-eight, is authorized to receive, out of any money in the treasury not otherwise appropriated, the amount of his full pay in the said line, according to his rank, but not exceeding in any case the pay of a captain in the said line : such pay to commence from the fourth day of March, one thousand eight hundred and thirty-one, and to continue during his natural life; and any such officer, non-commissioned officer, musician, or private, as aforesaid, who shall have served in the continental line, State troops, volunteers, or militia, a term or terms in the whole less than the above period, but not less than six months, shall be authorized to receive out of any unappropriated money in the treasury, during his natural life, each according to his term of service, an amount bearing such proportion to the annuity granted to the same rank for the service of two years, as his term of service did to the term aforesaid ; to commence from the fourth day of March, one thousand eight hundred and thirty-one. No person receiving any annuity or pension, under any law of the United States providing for revolutionary officers and soldiers, shall be entitled to the benefits of this act, unless he shall first relinquish his further claim to such pension; and in all payments under this act, the amount which may have been received under any other act as aforesaid, since the date at which the payments under this act shall commence, shall first be deducted from such payment. The pay allowed by this act shall, under the direction of the Secretary of the Treasury, be paid to the officer, non-commissioned officer, musician, or private entitled thereto, or his or their authorized attorney, at such places and times as the Secretary of the Treasury may direct ; and no foreign officer shall be entitled to said pay, nor shall any officer, non commissioned officer, musician, or private receive the same, until he furnish the said Secretary satisfactory evidence that he is entitled to the same in conformity to the provisions of this act; and the pay hereby allowed shall not be in any way transferable, or liable to attachment, levy, or seizure, by any legal process whatever, but shall inure wholly to the personal benefit of the officer, non-commissioned officer, musician, or soldier entitled to the same. So much of the said pay as accrued before the approval of this act shall be paid to the person entitled to the same, as soon as may be, in the manner and under the provisions above mentioned; and the pay that shall accrue thereafter shall be paid semi-annually, in the manner above directed; and in the case of the death of any person embraced by the provisions of this act, or of the act to which it is supplementary, during the period intervening between the semi-annual payments directed to be made by said acts, the proportionate amount of pay which shall accrue between the last preceding semi-annual payment and the death of such person shall be paid to his widow, or, if he leave no widow, to his children. The officers, non-commissioned officers, mariners, or marines, who served for a like term in the naval service, during the revolutionary war, shall be entitled to the benefits of this act, in the same manner as is provided for the officers and soldiers of the army of the Revolution.

CHAPTER XX.

Pensions to invalids of mounted volunteers for frontier defence.

The officers, non-commissioned officers,* and privates, raised pursuant to this act, shall be entitled to the like compensation, in case of disability, by wounds or otherwise, incurred in the service, as has heretofore been allowed to officers, non-commissioned officers, and privates in the military establishment of the United States; and shall be subject to the rules and articles of war, and such regulations as have been or shall be established according to law for the government of the army of the United States, as far as the same may be applicable to the said rangers, within the intent and meaning of this act, for the protection and defence of the north-western frontier of the United States.

CHAPTER XXI.

War Department directed to execute the law of June 7, 1832.

All the duties which devolve upon the Secretary of the Treasury† by virtue of an act approved the seventh of June, one thousand eight hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the army of the Revolution," be, and the same are hereby, transferred to the Secretary of War.

CHAPTER XXII.

Half pay to officers of Virginia State troops and navy.

The proper accounting officers of the Treasury are required to liquidate and pay the accounts‡ of the Commonwealth of Virginia against the United States, for payments to the officers commanding in the Virginia line in the war of the Revolution, on account of half pay for life promised the officers aforesaid by that Commonwealth, the sum of one hundred and thirty-nine thousand five hundred and forty-three dollars and sixty-six cents. The Secretary of the Treasury be, and he is hereby, required and directed to pay to the State of Virginia the amount of the judgments which have been rendered against the said State for and on account of the promise contained in an act passed by the General Assembly of the State of Virginia, in the month of May anno Domini one thousand seven hundred and seventy nine, and in favor of the officers or representatives of officers of the regiments and corps hereinafter recited, and not exceeding, in the whole, the sum of two hundred and forty-one thousand three hundred and forty-five dollars, to wit:

---

*Act June 15, 1832, sec. 4.

† Resolution June 28, 1832.

‡ Act 5th July, 1832.

First. To the officers, or their legal representatives, of the regiment commanded by the late Colonel George Gibson, the amount of the judgments which they have obtained, and which are now unsatisfied.

Second. To the officers, or their legal representatives, of the regiment denominated the second State regiment, commanded at times by Colonels Brent and Dabney, the amount of the judgments which they have obtained, and which are now unsatisfied.

Third. To the officers, or their legal representatives, of the regiments of Colonels Clark and Crockett, and Captain Rogers's troop of cavalry, who were employed in the Illinois service, the amount of the judgments which they have obtained, and which are now unsatisfied.

Fourth. To the officers, or their legal representatives, serving in the regiment of State artillery commanded by the late Colonel Marshall, and those serving in the State garrison regiment commanded by Colonel Muter, and serving in the State cavalry commanded by Major Nelson, the amount of the judgments which they have obtained, and which are now unsatisfied.

Fifth. To the officers, or their legal representatives, who served in the navy of Virginia during the war of the Revolution, the amount of the judgments which they have obtained, and which are now unsatisfied.

The Secretary of the Treasury be, and he is hereby, directed and required to adjust and settle those claims for half pay of the officers of the aforesaid regiments and corps, which have not been paid or prosecuted to judgment against the State of Virginia, and for which said State would be bound, on the principles of the half-pay cases already decided in the supreme court of appeals of said State; which several sums of money herein directed to be settled or paid, shall be paid out of any money in the treasury not otherwise appropriated by law.

CHAPTER XXIII.

Invalid pensioners entitled to pensions under the act of 15th May, 1828, may receive both pensions.

The third section of the act* entitled "An act for the relief of certain surviving officers and soldiers of the army of the Revolution," approved the fifteenth day of May, one thousand eight hundred and twenty-eight, shall not be construed to embrace invalid pensioners; and the pension of invalid soldiers shall not be deducted from the amount receivable by them under the said act.

CHAPTER XXIV.

Pensioners under the act of June 7, 1832, may receive invalid pensions, if disabled.

The second section of the act† entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolu-

---

*Act 14th July, 1832. † Act 19th February, 1833.

tion," approved the seventh day of June, one thousand eight hundred and thirty-two, shall not be construed to embrace invalid pensioners; and the pensions of invalid soldiers shall not be deducted from the amount receivable by them under the said act.

CHAPTER XXV.

Service to September, 1783, rendered available under the act of June 7, 1832.

In the execution of the act* supplementary to the "Act for the relief of certain surviving officers and soldiers of the Revolution," approved June seventh, one thousand eight hundred and thirty-two, wherever it shall be made to appear that any applicant for a pension under said act entered the army of the Revolution in pursuance of a contract with the government made previous to the eleventh day of April, one thousand seven hundred and eighty-three, and continued in service until after that period, it shall be the duty of the Secretary of War to compute the period of any such applicant's service from the time he then entered the army, and until the date of the definitive treaty of peace, and to allow him a pension accordingly.

CHAPTER XXVI.

Pension agents may be appointed as the Secretary of War directs.

All laws and parts of laws authorizing or requiring† the Bank of the United States, or its branches, to pay any pensions granted under the authority of the United States, shall be, and the same are hereby, repealed; and such payments shall be hereafter made at such times and places, by such persons or corporations, and under such regulations, as the Secretary of War may direct; but no compensation or allowance shall be made to such persons or corporations for making such payments, without authority of law.

CHAPTER XXVII.

Widows and orphans of officers and soldiers of the militia, rangers, sea-fencibles, and volunteers, who have died since April 20th, 1818, entitled to five years' half-pay.

When any officer, non-commissioned officer,‡ musician, or private, of the militia, including rangers, sea-fencibles, and volunteers, shall have died while in the service of the United States, since the twentieth of April, eighteen hundred and eighteen, or who shall have died in conse-

---

* Act 2d March, 1833. † Act 20th April, 1836.
‡ Act July 4, 1836, sections 1, 4, 5.

quence of a wound received whilst in the service since the day aforesaid, and shall have left a widow, or, if no widow, a child or children under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, or receiving such wounds, for and during the term of five years; and, in case of the death or marriage of such widow before the expiration of said five years, the half pay for the remainder of the time shall go to the children of the said decedent: *Provided*, That the half pay aforesaid shall be half the monthly pay of the officers, non-commissioned officers, musicians, and privates of the infantry of the regular army, and no more: *Provided, also*, That no greater sum shall be allowed to the widow, or to the child or children of any officer, than the half pay of a lieutenant colonel. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest, in any money or half pay granted by this act, shall be utterly void and of no effect. Each person acting for and in behalf of any one entitled to money under this act, shall take and subscribe an oath, to be administered by the proper accounting officer, and retained by him, and put on file, before a warrant shall be delivered to him, that he has no interest in said money by any pledge, mortgage, sale, assignment, or transfer; and that he does not know or believe that the same has been so disposed of to any person whatever. The Secretary of War shall adopt such forms of evidence, in applications under this act, as the President of the United States shall prescribe.

CHAPTER XXVIII.

Pay allowed from 4th March, 1831, to the widow or children of revolutionary officers, soldiers, or seamen, who died after that time, and before the 7th June, 1832.

If any officer,* non-commissioned officer, musician, soldier, Indian spy, mariner, or marine, whose service during the revolutionary war was such as is specified in the act passed the seventh day of June, eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution," have died since the fourth day of March, eighteen hundred and thirty-one, and before the date of said act, the amount of pension which would have accrued from the fourth day of March, eighteen hundred and thirty-one, to the time of his death, and become payable to him by virtue of that act, if he had survived the passage thereof, shall be paid to his widow, and, if he left no widow, to his children, in the manner prescribed in the act hereby amended. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest, in any money or half pay granted by this act, shall be utterly void and of no effect. Each person acting for and in behalf of any one entitled to money under this act, shall take and subscribe an oath, to be administered by the proper accounting officer, and retained by him, and put on file, before a warrant shall be delivered to him, that he has no interest in said money, by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been

---

*Act July 4, 1836, sections 2, 4, 5.

so disposed of to any person whatsoever. The Secretary of War shall adopt such forms of evidence, in applications under this act, as the President of the United States shall prescribe.

CHAPTER XXIX.

Widows of revolutionary officers and others allowed pensions.

If any person who served in the war of the Revolution,* in the manner specified in the act passed the seventh day of June, eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution," have died leaving a widow, whose marriage took place before the expiration of the last period of his service, such widow shall be entitled to receive, during the time she may remain unmarried, the annuity or pension which might have been allowed to her husband, by virtue of the act aforesaid, if living at the time it was passed. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any money or half pay granted by this act, shall be utterly void and of no effect. Each person acting for and in behalf of any one entitled to money under this act, shall take and subscribe an oath, to be administered by the proper accounting officer, and retained by him, and put on file, before a warrant shall be delivered to him, that he has no interest in said money, by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person whatever. The Secretary of War shall adopt such forms of evidence, in applications under this act, as the President of the United States shall prescribe.

CHAPTER XXX.

Service to November 3, 1783, made available to widows in certain cases.

The benefits of the third section of the act† entitled "An act granting half pay to widows and orphans, where their husbuands or fathers have died of wounds received in the military service of the United States, and for other purposes," approved the fourth day of July, eighteen hundred and thirty-six, shall not be withheld from any widow, in consequence of her having married after the decease of the husband for whose services she may claim to be allowed a pension or annuity under said act: *Provided*, That she was a widow at the time it was passed. The widow of any person who continued in the service of the United States until the third day of November, seventeen hundred and eighty-three, and was married before that day, and while her husband was in such service, shall be entitled to the benefits of the third section of the aforesaid act.

---

* Act July 4, 1836, sections 3, 4, 5. † Act 3d March, 1837.

CHAPTER XXXI.

Five years' pensions to widows of revolutionary officers and others, if married before 1794.

If any person who served in the war of the Revolution,* in the manner specified in the act passed the seventh day of June, eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution," have died, leaving a widow whose marriage took place after the expiration of the last period of his service and before the first day of January, seventeen hundred and ninety-four, such widow shall be entitled to receive for and during the term of five years from the fourth day of March, eighteen hundred and thirty-six, the annuity or pension which might have been allowed to her husband in virtue of said act, if living at the time it was passed: *Provided*, That in the event of the marriage of such widow, said annuity or pension shall be discontinued. No pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest, in any annuity, half pay, or pension granted by this act, shall be valid; nor shall the half pay, annuity, or pension, granted by this act, or any former act of Congress, be liable to attachment, levy, or seizure, by any process in law or equity—but shall inure wholly to the personal benefit of the pensioner or annuitant entitled to the same; and that, before a warrant shall be delivered to any person acting for or in behalf of any one entitled to money under this act, such person shall take and subscribe an oath or affirmation, to be administered by the proper accounting officer, and put on file, that he has no interest in said money by any pledge, mortgage, transfer, agreement, understanding, or arrangement, and that he does not know or believe that the same has been so disposed of to any other person. The Secretary of War shall adopt such regulations and forms of evidence, in relation to applications and payments under this act, as the President of the United States may prescribe.

CHAPTER XXXII.

Death of the husband, after July 4, 1836, does not prevent the widow from being pensioned under the act of that date.

The benefits of the third section of the act† entitled "An act granting half pay to widows or orphans where their husbands or fathers have died of wounds received in the military service of the United States in certain cases, and for other purposes," approved the fourth day of July, eighteen hundred and thirty-six, shall not be withheld from any widow whose husband has died since the passage of the said act, or who shall hereafter die, if said widow shall otherwise be entitled to the same.

---

*Act July 7, 1838, sections 1, 2, 3.

† Joint resolution July 7, 1838.

CHAPTER XXXIII.

Death of the husband, after June 7, 1832, does not prevent the widow from drawing a pension under the act of July 7, 1838.

The benefits of the act* "granting half pay and pensions to certain widows," approved the seventh day of July, eighteen hundred and thirty-eight, shall not be withheld from any widow whose husband died after the passage of the act of the seventh of June, eighteen hundred and thirty-two, and before the act of the seventh July, eighteen hundred and thirty-eight, if otherwise entitled to the same.

CHAPTER XXXIV.

The marriage of a widow after the death of her husband, for whose service she claims, is no bar to her drawing a pension under the act of July 7, 1838.

The marriage of the widow after the death of her husband,† for whose services she claims a pension under the act of the seventh July, eighteen hundred and thirty-eight, shall be no bar to the claim of such widow to the benefit of that act, she being a widow at the time she makes application for a pension.

CHAPTER XXXV.

Pensions may be paid to administrators or executors in certain cases.

In case any male pensioner shall die,‡ leaving children, but no widow, the amount of pension due to such pensioner at the time of his death shall be paid to the executor or administrator on the estate of such pensioner, for the sole and exclusive benefit of the children, to be by him distributed among them in equal shares, and the same shall not be considered as a part of the assets of said estate, nor liable to be applied to the payment of the debts of said estate in any case whatever. In case any pensioner who is a widow shall die, leaving children, the amount of pension due at the time of her death shall be paid to the executor or administrator for the benefit of her children, as directed in the foregoing section. In case of the death of any pensioner, whether male or female, leaving children, the amount of pension may be paid to any one or each of them, as they may prefer, without the intervention of an administrator.

CHAPTER XXXVI.

One year's pension to certain widows.

The widow of any person who served in the war of the Revolution,§ in the manner set forth in the act approved the seventh day of June,

---

* Joint Resolution August 16, 1842. † Act August 23, 1812. ‡ Act June 19, 1840.
§ Act March 3, 1843, section 1.

eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution," and whose widow, in virtue of an act approved the seventh day of July, eighteen hundred and thirty-eight, entitled "An act granting half pay and pensions to certain widows," and an act approved the twenty-third day of August, eighteen hundred and forty-two, amendatory thereof, and a resolution approved the sixteenth day of August, eighteen hundred and forty two, entitled "A resolution declaratory of the pension act of July seventh, eighteen hundred and thirty-eight," received, or is entitled to an annuity or pension for the term of five years from the fourth of March, eighteen hundred and thirty-six, shall be entitled to receive the same annuity or pension which she received, or is entitled to receive, under said acts or said resolution, or either of them, for and during the further term of one year from the fourth day of March, eighteen hundred and forty-three, or during such portion of said term as said widow shall survive, subject in all respects, however, to the rules, limitations, and conditions, in and by said acts and resolution made and approved.

CHAPTER XXXVII.

Widows and husbands shall not draw pensions for the same period.

No pension shall be hereafter* granted to a widow for the same time that her husband received one.

CHAPTER XXXVIII.

Persons not entitled to pensions while in the service, except in certain cases.

No person in the army, navy, or marine corps,† shall be allowed to draw both a pension as an invalid and the pay of his rank or station in the service, unless the alleged disability for which the pension was granted be such as to have occasioned his employment in a lower grade, or in some civil branch of the service.

CHAPTER XXXIX.

Four years' additional pension to certain widows.

The act granting pensions to the widows of certain revolutionary soldiers,‡ approved the third day of March, one thousand eight hundred and forty-three, is revived and extended for and during the term of four years from and after the fourth day of March, one thousand eight hundred and forty-four, to have the same effect as if said act had been a grant of pen-

---

* Act April 30, 1844. † Act April 30, 1844. ‡ Act June 17, 1844, sections 1, 2.

sions for five years, instead of one year, from and after the fourth day of March, one thousand eight hundred and forty three. Such widows as have been or shall be admitted by special acts of Congress to the benefit of the pension act, approved the seventh day of July, one thousand eight hundred and thirty-eight, or to the benefit of the act hereby revived and extended, shall be entitled and shall be admitted to the benefit of this act; subject, however, to the rules, limitations, and conditions, in and by said act prescribed.

CHAPTER XL.

Widows of revolutionary men entitled to a renewal of their pensions for life.

If any person who served in the war of the Revolution* in the manner specified in the act passed the 7th day of June, eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution," have died, or shall hereafter die, leaving a widow, whose marriage took place before the first day of January, one thousand seven hundred and ninety-four, such widow shall be entitled to receive, for and during her natural life, from and after the fourth day of March, eighteen hundred and forty-eight, the annuity or pension which might have been allowed to her husband, in virtue of said act, if living at the time it was passed under the same rules, regulations, and restrictions, as are prescribed in the act approved July seventh, eighteen hundred and thirty-eight, entitled "An act granting half pay and pensions to certain widows:" *Provided*, That in the event of the marriage of such widow, said annuity or pension shall be discontinued.

SEC. 2. *And be it further enacted*, That such widows as have been admitted by special acts of Congress to the benefit of the pension act, approved the seventh day of July, one thousand eight hundred and thirty-eight, or to the benefit of the act approved the seventeenth of June, one thousand eight hundred and forty-four, shall be entitled, and shall be admitted to the benefit of this act; subject, however, to the rules, limitations, and restrictions, in and by said act prescribed.

CHAPTER XLI.

Surgeon's certificate to be considered sufficient evidence that the disability arose in the service.

In all cases of application for bounty land warrants,† under the act approved February eleventh, eighteen hundred and forty-seven, the honorable discharge of the applicant showing the same was predicted on a surgeon's certificate of disability, shall be considered as satisfactory evidence to the Commissioner of Pensions that the disability was incurred in the course of service.

---

* Act February 2, 1848. † Resolution March 24, 1848.

CHAPTER XLII.

Fees allowed to registers and receivers, but not required from the soldiers who locate their land-warrants.

For the services which may be rendered after the passage of this act,* by the registers and receivers of the several land offices of the United States, in carrying out the provisions of the ninth section of the act of eleventh February, one thousand eight hundred and forty-seven, entitled "An act to raise, for a limited time, an additional military force, and for other purposes," they shall each be entitled to require from the holders of warrants issued under that act, for one hundred and sixty acres, the sum of fifty cents for each; and from the holders of warrants, issued under the same law, for forty acres, the sum of twenty-five cents for each, as full compensation for those services: *Provided*, That in all cases where the warrant is located by, and for the use of, the volunteer or soldier to whom such warrant may have issued, for services rendered under the act aforesaid, no compensation shall be charged, either by the register or receiver, for making such location.

CHAPTER XLIII.

Brothers and sisters of soldiers of the Mexican war entitled to land in certain cases.

The term† "relatives," as used in the ninth section of the act entitled "An act to raise, for a limited time, an additional military force, and for other purposes," approved eleventh February, eighteen hundred and forty-seven, shall be considered as extending to the brothers and sisters of those persons whose services, under that act, may have entitled them to the land therein provided; the order or priority of right, however, shall remain as declared in that act, and those failing, the right shall acrue, fourthly, to the brother or sister, or in equal proportions to the brothers and sisters of the deceased, as the case may be.

SEC. 2. *And be it further enacted*, That the benefits of the said act of eleventh February, eighteen hundred and forty seven, shall not be construed as forfeited by the privates and non-commissioned officers who have been, or may be promoted to the grade of commissioned officer, during their service in Mexico, and who shall have subsequently fulfilled the condition of their engagements: *Provided*, Such promotion shall have been made subsequent to the original organization of the company, corps, or regiment to which such privates and non commissioned officers may have belonged.

CHAPTER XLIV.

Time of application for bounty land for service in the war of 1812 with Great Britain extended.

The act of the second session of the twenty-ninth Congress, chapter sixty-nine, entitled "An act to provide for satisfying claims for bounty

---

*Act May 17, 1848. † Act May 27, 1848.

ands for military services in the late war with Great Britain and for other purposes," approved July twenty-seven, eighteen hundred and forty-two, and also the two acts approved January twenty-seventh, eighteen hundred and thirty-five, therein and thereby revived, and continued in force for five years, to be computed from and after the passage of this act.*

☞ A soldier to be entitled to bounty for the above-named service, must have enlisted for five years or during the war.

CHAPTER XLV.

Husband's evidence of service, if a pensioner, to be conclusive proof of the same in his widow's case.

In all cases where a pension may have been granted† to any officer or soldier of the Revolution in his lifetime, the evidence upon which such pension was granted shall be conclusive of the service of such officer or soldier in the application of any widow, or woman, who may have been the widow, of such officer or soldier, for a pension, and upon proof by her that she was married to any such officer or soldier prior to January first, seventeen hundred and ninety-four, and that she is a widow, she shall thereupon be placed upon the pension-rolls at the same rate that such officer or soldier received during his lifetime.

CHAPTER XLVI.

Enlisted men of the ordnance corps of the United States army, entitled to pensions and bounty lands in certain cases.

The acts of Congress granting pension to soldiers disabled by wounds or otherwise, while in the line of their duty in public service, shall be construed to apply to the enlisted men of the ordnance department‡ who have been, or may be, disabled, in the same manner, as to non-commissioned officers, artificers, muscians, and privates of other corps of the army, subject to the limitation that in no such case shall the pension exceed the rate rate of eight dollars per month.

Sec. 2. *And be it further enacted,* That those enlisted men of the ordnance department who have served, or may serve, in Mexico during the war with that country, shall be entitled to, and shall receive, the same bounty in land as is, or may be, allowed by law to other regular troops in the service of the United States, and under like limitations and restrictions.

CHAPTER XLVII.

Pensions allowed to widows and orphans of officers and soldiers of the regular army in certain cases arising in the war with Mexico.

The provisions§ of the first section of the act entitled " An act granting half pay to widows or orphans where their busbands and fathers have

---

* Act June 26, 1848. † Act July 1, 1848. ‡ Act, July 10, 1848. § Act, July 21, 1848.

died of wounds received in the military service of the United States, in certain cases, and for other purposes;" approved July fourth, eighteen hundred and thirty-six, shall be applicable to all widows and orphans of officers, non-commissioned officers, musicians, and soldiers of the army of the United States, who were in the army of the United States on the first day of March, eighteen hundred and forty six, or at any subsequent period during the present war between the United States and Mexico. All widows and orphans of officers, non-commissioned officers, musicians, and privates, whether of the regular army or of volunteers, who have died since the first day of April, one thousand eight hundred and forty-six, or who may die during the war with Mexico, from wounds received or from disease contracted while in the line of duty, shall be entitled to the same rate of pension as is provided for in the first section of the before-mentioned act, under like limitations and restrictions: *Provided*, said death has occurred, or may hereafter occur, while said officers, non-commissioned officers, musicians, or privates, were in the service of the United States, and in the line of duty, or while returning to their usual place of residence in the United States, after having received a discharge upon a surgeon's certificate for disability incurred from wounds received, or disease contracted while in the line of duty, or while on their march to join the army in Mexico: *And provided further*, That this act shall not be applicable to the widows and orphans of such officers, non-commissioned officers, musicians, or privates, who have not served in Mexico, or at posts or stations on the borders of Mexico, except where such officers, non commissioned officers, musicians, or privates, have died while on their march to join the army in Mexico.

SEC. 3. *And be it further enacted*, That all pensions under this act shall be granted under such rules, regulations, restrictions, and limitation as the Secretary of War, with the approbation of the President of the United States, may direct.

CHAPTER XLVIII.

Soldiers of the war of 1812 may select new land if the first warrant was located on land unfit for cultivation.

It shall, and may be, lawful* for any soldier in the late war with Great Britain, to whom bounty land has been allotted and patented in the State of Arkansas, which was and is unfit for cultivation, to surrender said patent, and to receive in lieu thereof, the same quantity of any of the public land subject to private entry, as he may select: *Provided*, That before receiving such new land, it shall be proved to the satisfaction of the Commissioner of the General Land Office, that the land so allotted and patented to said soldier is unfit for cultivation, and that said soldier has never disposed of his interest in said land by any sale of his own, and that the same has not been taken or disposed of for his debts due to any individual, and that he shall release all his interest in the same to the United States, in such way as said Commissioner shall prescribe; and such surrender and location shall be made within five years from the passing of this act.

---

* Act July 25, 1848.

CHAPTER XLIX.

Widows of revolutionary officers and soldiers may draw pensions if married before January first, eighteen hundred.

The widows of all officers,* non-commissioned officers, musicians, soldiers, mariners, or marines, and Indian spies, who shall have served in the continental line, State troops, volunteers, militia, or in the naval service, in the revolutionary war with Great Britain, shall be entitled to a pension during such widowhood, of equal amount per annum that their husbands would be entitled to, if living, under existing pension laws; to commence on the fourth day of March, eighteen hundred and forty-eight, and to be paid in the same manner that other pensions are paid to widows; but no widow now receiving a pension shall be entitled to receive a further pension under the provisions of this act; and no widow married after the first day of January, one thousand eight hundred, shall be entitled to receive a pension under this act.

Sec. 2. *And be it further enacted*, That any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest, in any way granted by this act, shall be utterly void and of no effect, nor shall the annuities or pension granted by this act be liable to attachment, levy, or seizure by any process of law or equity, but shall inure wholly to the personal benefit of the pensioner or annuitant entitled to the same.

The same rules of evidence, regulations, and prescriptions shall apply and govern the Commissioner of Pensions and pension agents under this act, as now prevail under existing pension laws which relate to widows of revolutionary officers and soldiers.

Sec. 3. *And be it further enacted*, That this act shall take effect immediately.

Approved July 29, 1848.

CHAPTER L.

Pre-emption claimants upon the Miamie lands in Indiana, entitled to bounty lands, may apply their warrants in payment.

Those persons who are entitled to bounty land warrants† for one hundred and sixty acres, in virtue of their own services during the present war with Mexico, and who may likewise be entitled to the right of pre-emption upon the Miamie lands in Indiana, under the act of the third of August, eighteen hundred and forty six, shall have the privilege of applying their warrants in payment, or part payment, for the tract for which they may establish their right of pre-emption; said warrant to be estimated, when received as aforesaid, at the sum of one dollar and twenty-five cents for each acre therin contained: *Provided*, That in no case shall the government be required to refund any excess of the estimated amount of said warrants, over and above the price of the tract claimed to be entered; and should the tract claimed to be entered as aforesaid exceed, at the rate fixed by law, the said sum, then and in such case the balance of the purchase money of said tract shall be paid in cash.

---

* Act July 29, 1848. † Act August 7, 1848.

CHAPTER LI.

Location of bounty land-warrants in legal subdivision, authorized in certain cases.

Any non-commissioned officer,* musician, or private, or his widows, or heirs, who shall receive, and hold in his own right, a land-warrant, issued by the government of the United States for military service, may locate the same in, on legal subdivision, on any public land subject to private entry, taking said land at the price at which the same is subject to private entry, and reckoning the warrant at one dollar and twenty-five cents per acre, for the number of acres therein contained, and paying the balance, if any, in money; but no claim shall exist on the government to pay for any balance on said warrant in money.

---

* Act August 14, 1848.

NAVY PENSION LAWS.

CHAPTER I.

Invalids of the navy allowed pensions.

Every officer, seaman, or marine,* disabled in the line of his duty, shall be entitled to receive for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding one-half of his monthly pay. All money accruing, or which has already accrued, to the United States from the sale of prizes, shall be, and remain forever, a fund for the payment of pensions and half pay, should the same be hereafter granted, to the officers and seamen who may be entitled to receive the same; and if the said fund shall be insufficient for the service, the public faith is hereby pledged to make up the deficiency; but, if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, marines, and for such as, though not disabled, may merit, by their bravery, or long and faithful services, the gratitude of their country.

CHAPTER II.

Five years' pensions to widows and children of navy officers killed.

If any officer of the navy† or marines shall be killed, or die by reason of a wound received in the line of his duty, leaving a widow, or, if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, which allowance shall continue for and during the term of five years; but, in case of the death or intermarriage of such widow before the expiration of the said term of five years, the half pay for the remainder shall go to the child or children of the said deceased officer: *Provided*, That such half pay shall cease on the death of such child or children, and the money required for this purpose shall be paid out of the navy pension fund, under the direction of the commissioners of the fund.

---

*Act April 23, 1800, sections 8, 9.

† Act January 20, 1813.

CHAPTER III.

Five years' pensions to widows and orphans of persons slain in the service.

If any seaman or marine,* belonging to the navy of the United States, shall die, or if any officer, seaman, or marine, belonging to the navy of the United States, shall have died since the 18th day of June, in the year of our Lord 1812, by reason of a wound received in the line of his duty, leaving a widow, or, if no widow, a child or children under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death; which allowance shall continue for the term of five years; but in case of the death or intermarriage of such widow before the expiration of the said term of five years, the half pay for the remainder of the term shall go to the child or children of the deceased: *Provided*, That such half pay shall cease on the death of such child or children. And the money required for this purpose shall be paid out of the navy pension fund, under the direction of the commissioners of that fund.

CHAPTER IV.

Revenue officers and seamen allowed pensions in certain cases.

The officers and seamen† of the revenue cutters of the United States who have been, or may be wounded or disabled in the discharge of their duty whilst co operating with the navy, by order of the President of the United States, shall be entitled to be placed on the navy pension-list, at the same rate of pension, and under the same regulations and restrictions, as are now provided by law for the officers and seamen of the navy.

CHAPTER V.

[The act of April 16, 1816, had it been inserted, would be placed here; but, as that law is inoperative in time of peace, it is not deemed necessary now to place it among the acts which are in force. It relates to the duties of the courts and marshals respecting prize money.]

CHAPTER VI.

Orphans and widows of persons slain in armed vessels of the United States allowed pensions.

If any officer, seaman, or marine,‡ belonging to the navy of the United States shall die, or shall have died, since the eighteenth day of June, in

---

* Act March 4, 1814, section 2. † Act April 18, 1814. ‡ Act March 3, 1817.

the year of our Lord one thousand eight hundred and twelve, in consequence of disease contracted, or casualties or injuries received, while in the line of his duty, and which shall be satisfactorily proved to the commissioners of the navy pension fund, leaving a widow, or, if no widow, a child or children under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death—which allowance shall continue for the term of five years; but, in case of the death or intermarriage of such widow before the expiration of the said term of five years, the half pay for the remainder of the term shall go to the child or children of the deceased: *Provided*, That such half pay shall cease on the death of such child or children. And the money required for this purpose shall be paid out of the navy pension fund, under the direction of the commissioners of that fund.

CHAPTER VII.

Pensions given to orphans and widows of persons slain in armed vessels of the United States.

In every case where a person has been put on the pension list,* or granted a certificate of pension, by virtue of the first section of an act passed the fourth day of March, in the year eighteen hundred and fourteen, entitled "An act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," the Secretary of the Navy be, and he is hereby, authorized, at the expiration of the term of five years for which any pension certificate shall have been granted as aforesaid, to allow the full monthly pension to which the rank of the deceased would have entitled him for the highest rate of disability; and that such pension shall continue to such person for the further term of five years: *Provided*, That such pension shall cease on the death of such widow, child, or children.

CHAPTER VIII.

Half-pay pensions to the widows and children of certain officers, seamen, and marines, extended.

In all cases where provision has been made, by law,† for five years' half pay to the widows and children of officers, seamen, and marines, who were killed in battle, or died of wounds received in battle, or who died in the naval service of the United States, during the late war, the said provision shall be continued for the additional term of five years, to commence at the end of the first term of five years, in each case, respectively, making the provision equal to ten years' half pay; which shall be paid in the manner and out of the fund heretofore designated by law; and the said pensions shall also cease for the reasons mentioned in the said law.

---

*Act April 16, 1818. † Act of March 3, 1819.

CHAPTER IX.

Further extension of the term of half-pay pensions to widows and children.

In all cases where provision has been made, by law,* for five years' half pay to the widows and children of officers, seamen, and marines, who were killed in battle, or who died in the naval service of the United States, during the late war, and also in all cases where provision has been made for extending the term for five years, in addition to the first term of five years, the said provision shall be further extended for an additional term of five years, to commence at the end of the second term of five years, in each case, respectively, making the provision equal to fifteen years' half pay, which shall be paid out of the fund heretofore provided by law; and the said pension shall cease, for the causes mentioned in the laws providing the same, respectively. From and after the passing this act, the act entitled "An act to amend and explain an act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," passed March the third, one thousand eight hundred and seventeen, is hereby repealed: *Provided, however*, That nothing in this act contained shall be construed to prevent the payment of any pension already granted, until the full expiration of the period thereof; nor to effect or impair the rights of any person or persons which may have accrued during the existence of the act hereby repealed, as aforesaid.

CHAPTER X.

Extending the term of certain pensions.

In all cases† where provision has been made, by law, for the five years' half pay to the widows and children of officers, seamen, and marines, who were killed in battle, or who died in the naval service of the United States, during the last war, and also in all cases where provision has been made for extending the term for five years in addition to any term of five years, the said provision shall be further extended for an additional term of five years, to commence at the end of the current or last expired term of five years in each case, respectively; making the provision equal to twenty years' half pay, which shall be paid out of the fund heretofore provided by law; and the said pensions shall cease for the causes mentioned in the laws providing the same, respectively.

CHAPTER XI.

Further extending pensions heretofore granted.

In all cases‡ where provision has been made, by law, for the five years' half pay to widows and children of officers, seamen, and marines, who

*Act of January 22, 1824. †Act of May 23, 1828, section 1. ‡Act of June 28, 1832.

were killed in battle, or who died in the naval service of the United States, and also in all cases where provision has been made for extending the term for five years, in addition to any term of five years, the said provision shall be, and is hereby, further extended for an additional term of five years, so far as respects widows only, to commence at the end of the current or last expired term of five years, in each case, respectively; which pensions shall be paid out of the fund heretofore provided by law; and the pension herein continued shall cease for the causes mentioned in the laws granting the same, respectively. The provisions of this act shall be extended to the widows of all those who may have died by reason of wounds received during the war.

CHAPTER XII.

Concerning naval pensions, and the navy pension fund.

All the provisions* and benefits of the act of the twenty-eighth of June, one thousand eight hundred and thirty-two, entitled "An act further to extend the pension heretofore granted to the widows of persons killed, and who died in the naval service," be continued for another term of five years to all those widows who have heretofore had the benefit of the same, and the same are hereby also extended to the widows of officers, seamen, and marines, who have died in the naval service since the first day of January, one thousand eight hundred and twenty-four, or who may die in said service, by reason of disease contracted, or of casualties by drowning or otherwise, or of injuries received while in the line of their duty; and the pensions of such widows shall commence from the passage of this act: *Provided*, That every pension hereby granted shall cease on the death or marriage of such widow. There shall be reimbursed to the navy pension fund, out of any money in the treasury not otherwise appropriated, the cost of the stock of the Bank of Columbia, heretofore purchased by the commissioners of the said fund, and which now remains unredeemed by the said bank, together with interest thereon from the period at which said bank ceased to pay interest, to the time of the reimbursement herein directed to be made; and, at the period of said reimbursement, the said stock shall be transferred by the Secretary of the Navy to the Treasurer of the United.

CHAPTER XIII.

Navy pensions renewed to certain widows for five years.

The pensions† for the period of five years, which have been heretofore granted out of the naval pension fund to the widows of officers, seamen, and marines, who have been killed or died by reason of a wound received in the line of their duty, or who have died by occasion of disease con-

---

*Act of June 30, 1834. †Act of March 3, 1845.

tracted, or of a casualty by drowning or otherwise, or of injury received while in the line of their duty, and which pensions have ceased in consequence of the expiration of the period for which they were originally granted, or for which they were subsequently renewed, shall be continued for another period of five years to such of the said widows as have remained unmarried; to commence from the day on which such pensions, respectively, terminated, and to be paid out of any money in the treasury not otherwise appropriated: *Provided*, That every pension hereby renewed shall cease on the death or intermarriage of the widow to whom the same is hereby granted.

Naval pensions of certain widows and orphans renewed, and naval engineers, firemen, and coal-heavers, provided for.

All those widows* and such child or children as are now receiving a pension under any of the laws of Congress, passed prior to the first of August, eighteen hundred and forty-one, (excepting the law passed the third of March, eighteen hundred and thirty-seven,) and those widows and children who have received pensions at any time within five years, prior to the passage of this act, may, and shall, continue to receive the same amount as they have received under any special act, from the time such special act expired: *Provided*, Such act ceased on or after the first day of September, eighteen hundred and forty-five, or may hereafter terminate; and all such pensions as are now in force, and such as are renewed by this act, shall be paid out of any money in the treasury not otherwise appropriated, so long as the said widows shall live as widows; and in case of the death, before or after the passage of this act, of the widows, to the orphan child or children of the deceased parties, until they respectively arrive at the age of sixteen years; and to the child or children of said widows, in case of marriage by said widows, until said child or children shall respectively arrive at the age of sixteen years; and that the act approved thirtieth April, eighteen hundred and forty-four, shall not be so construed as to exclude officers, seamen, or marines, from their pensions when disabled for sea service: *Provided*, That the whole amount received by the pensioner, including pay for his service, and pension shall not exceed his lowest duty pay; that the orphan child or children of the deceased parties shall have a pension, in case the widow has died after drawing a five years' pension, to commence at the time when the widow dies, and to continue until the child or children shall respectively reach the age of sixteen years; and that any casualty, by which an officer, seamen, or marine has lost or may lose his life while in the line of his duty, shall be considered sufficient to entitle the widow, child, or children, to all the benefits of this act.

Sec. 2. *And be it further enacted*, That engineers, firemen, and coal-heavers in the navy, shall be entitled to pensions in the same manner as officers, seamen, and marines; and the widows of engineers, coal-heavers, and firemen, in the same manner as the widows of officers, seamen, and marines: *Provided*, That the pension of a chief engineer shall be the same as that of a lieutenant in the navy; and a pension of the widow of

---

* Act August 11, 1848.

a chief engineer the same as that of the widow of a lieutenant in the navy; the pension of a first assistant engineer the same as that of a lieutenant of marines; and the pension of the widow of a first assistant engineer the same as that of the widow of a lieutenant of marines; the pension of a second or third assistant engineer the same as that of a forward officer, and the pension of the widow of a second or third assistant engineer the same as that of the widow of a forward officer; the pension of a fireman or coal-heaver the same as that of a seaman; the pension of the widow of a fireman or coal-heaver the same as that of the widow of a seaman: *And provided further*, That an engineer, fireman, or coal-heaver, shall not be entitled to any pension by reason of a disability incurred prior to the thirty-first of August, eighteen hundred and forty-two, nor shall the widow of an engineer, fireman, or coal-heaver, be entitled to any pension by reason of the death of her husband, if his death was prior to the said date.

SEC. 3. *And be it further enacted*, That the amount of pension in every case arising under this law not to exceed the half pay of the deceased officer, seaman, or marine, as it existed in January, eighteen hundred and thirty-five, or such rate of pension as is allowed by this act.

EXECUTIVE REGULATIONS.

Rules of evidence in invalid claims.

WAR DEPARTMENT,
Pension Office, December 23, 1817.

The following evidence will be required in all militia cases, and cases of the regular army where the discharge and surgeon's certificate have been lost or destroyed, or where none have been given, to enable the Secretary of War to grant pensions, viz:

In cases where the regular discharge and the surgeon's certificate for disability cannot be had, the applicant for a pension, whether he has been a soldier* of the regular army, or a militiaman in the service of the United States, must produce the sworn certificate of his captain, or other officer, under whom he served, stating distinctly the time and place of his having been wounded, or otherwise disabled, and that the same wounds or disabilities arose while in the service of the United States, and in the line of his duty; with the affidavit of one or more surgeons,† or physicians, whether of the army or citizens, accurately describing the wound, and stating the degree of disability to which the soldier may be entitled under it. These documents to be sworn to before a judge of the United States court, or some judge or justice of the peace; and if a State judge, or justice of the peace, then under the seal of the clerk of the county in which such judge or justice may reside; and the name of the paymaster who last paid the soldier, as belonging to the service of the United States, to be in every instance furnished by the applicant, in order to a due examination of the muster-rolls.

Applicant for a pension not entitled thereto, unless he has been mustered in the United States service.

WAR DEPARTMENT, *October* 4, 1821.

SIR: Your letter, enclosing the papers of Thomas Pendexter, has been received. It appears, from the documents in this case, that the applicant, while a recruit and at the rendezvous, was taken sick, and was sent to a house which was occupied as an hospital, where the surgeon administered some medicine, which was so violent in its operation as to cause an abdominal hernia. Pendexter not having joined his regiment previous to his being attacked by the sickness, his claim cannot be allowed; no one being entitled to a pension, under the laws providing for invalids, who has not been mustered into the service of the United States, and joined

* These rules of evidence are applicable to claimants of every grade.
† The applicant, if within thirty miles of an army surgeon, must obtain his certificate.

his regiment or corps. The papers of Mr. Pendexter have been, agreeably to the regulations of the department, placed on the files of the Pension Office with other rejected cases.

I am, respectfully, your obedient servant,

J. C. CALHOUN.

Hon. JOHN HOLMES, *Alfred, Maine.*

Proof of identity required in cases where the pension has not been claimed for one year or more.

JUNE, 1824.

No payments will, in future, be made to any pensioner, either in person or by attorney, who has not applied for his pension for one year or more, without the production of evidence of his identity; the proof will consist of the certificate of a magistrate in the county in which the pensioner resides, setting forth either that he knows the applicant to be the identical pensioner named in the original pension certificate, which he must exhibit to the magistrate, or that it has been satisfactorily proven before him that he is such pensioner; the signature of the magistrate to be certified under the seal of the court of the county.

J. C. CALHOUN,
Secretary of War.

JAMES L. EDWARDS, Esq.,
Pension Office.

Where rolls do not show the disability of an applicant, pension not to be granted without explanation.

WAR DEPARTMENT, *January* 10, 1825.

SIR: The memorial and papers in support of the claim of Laban Brown to a pension, which were referred to this department by the Committee on Pensions, have been examined.

The rule in the investigation of such cases is, not to grant a pension for disability alleged to have been incurred during or since the late war, unless the testimony adduced by the applicant be corroborated by the rolls in this or the Treasury Department, except only in cases where sufficient reasons are given for the want of such corroborative evidence. In this case, there is no return made of the claimant's disability, nor is there any reason assigned for the omission of such return. Under this rule, the claim cannot be allowed. As it is deemed important, it cannot be dispensed with. The documents are herewith returned.

I have the honor to be, very respectfully, your obedient servant,

J. C. CALHOUN.

Hon. PETER LITTLE,
Chairman of the Committee on Pensions and Revolutionary Claims, H. R.

Pension agent's certificate necessary in certain applications for increase of pension.

WAR DEPARTMENT, *November* 17, 1831.

The rule of April 11, 1831, which directs that no application for an increase of pension shall be made except at the biennial examination, is hereby rescinded. All applications for increase will, however, be made as heretofore, through the pension agents, in order that the agents may certify as to the character of the surgeons; except in cases only where the surgeons are known to this department, or where the examinations are made by surgeons of the army.

LEWIS CASS.

Proof complete when last affidavit or certificate is dated.

WAR DEPARTMENT, *January* 30, 1832.

The rule of the 14th of January, 1830, which declares that the testimony in support of a pension claim is not considered complete until a decision is made on the case by the proper officer of the department, except in cases where delay occurs imputable to the department, is hereby rescinded, and the rule is revived which declares that the evidence is perfect when no objection whatever exists to the admission of the claim. In future, therefore, the pension will commence at the date of the last certificate which authenticates the papers. Pensions granted to officers or soldiers of the present peace establishment will commence at the date of the last certifiate of the officer whose duty it is to certify; and if in any case an affidavit should be necessary, then the rule above mentioned is to be observed. The acts respecting invalids of the Revolution are so explicit as to render any rule unnecessary.

The rule of November, 1830, respecting agents, is also rescinded.

LEWIS CASS.

Rules of evidence under act of June 7, 1832.

DEPARTMENT OF WAR,
Pension Office, June 27, 1832.

The following regulations have been adopted by the Secretary of War or carrying into effect the act of Congress, passed June 7, 1832, entitled An act supplementary to 'An act for the relief of the surviving officers nd soldiers of the Revolution:'"

This law has been construed to extend as well to the line as to every ranch of the staff of the army, and to include, under the terms "continental line," "State troops," "militia," and "volunteers," all persons ensted, draughted, or who volunteered, and who were bound to military ervice; but not those who were occasionally employed with the army pon civil contracts, such as clerks to commissaries and to storekeepers, c., teamsters, boatmen, &c.

Four general classes of cases are embraced in this law—

1. The regular troops.
2. The State troops, militia, and volunteers.
3. Persons employed in the naval service.
4. Indian spies.

1. As rolls of the regular troops in the revolutionary war exist in this department, all persons claiming the benefit of this law, as officers, non-commissioned officers, musicians, or privates, will, in the first instance, make application by transmitting the following declaration, which will be made before a court of record of the county where such applicant resides. And every court of record having, by law, a seal and clerk, is considered a court of record.

—

DECLARATION

In order to obtain the benefit of the act of Congress of June 7, 1832.

STATE, (TERRITORY, OR DISTRICT) OF , } ss:
County of , }

On this day of personally appeared (*a*)* the of the A B, a resident (*b*) of in the county of , and State, Territory, or District of , aged (*c*) years, who being first duly sworn according to law, doth, on his oath, make the following declaration, in order to obtain the benefit of the provision made by the act of Congress passed June 7, 1832: That he enlisted in the army of the United States in the year (*d*) with , and served in the (*e*) regiment of the line, under the following named officers:

[Here set forth the names and rank of the field and company officers: the time he left the service, (and if he served under more than one term of enlistment, he must specify the particular period, and rank, and names of his officers); the town or county, and State, in which he resided when he entered the service; the battles, if any, in which he was engaged, and the country through which he marched.]

He hereby relinquishes every claim (*f*) whatever to a pension, or an annuity, except the present, and he declares that his name is not on the pension roll of any agency in any State, or (if any) only on that of the agency in the State of

Sworn to and subscribed the day and year aforesaid.

A. B.

[And then will follow the certificate of the court]

And the said court do hereby declare their opinion, (*g*) that the above-named applicant was a revolutionary soldier, and served as he states.

I, , of the court of , do hereby certify (*h*) that the foregoing contains the original proceedings of the said court in the matter of the application of for a pension.

In testimony whereof, I have hereunto set my hand and seal of office (*i*) this day of , &c.

---

* The references are explained on p. 40 *et seq.*

If, on examination of the proper record, the names of applicants making such declaration cannot be found, they will receive detailed instructions respecting the nature and form of the testimony they must produce, to secure their being placed on the pension-roll. *Vide note* (*j*). As the presumption will, in such case, be against the applicants, in consequence of the omission of their names in the muster-rolls, they will be required to furnish, as near as may be, the same evidence as has heretofore been required by the regulations and practice adopted for carrying into effect the act of Congress of March 18, 1818, and the acts supplementary thereto, with such relaxations as have been, from time to time, sanctioned by the department, on account of the rapid decrease of the survivors of the revolutionary army, and the consequent difficulty of procuring direct positive testimony in every case.

Whenever an officer, or non-commissioned officer, is now in the receipt of a pension, he should make application, if entitled to the benefits of this act, by letter merely, setting forth his rank, and the regiment, corps, or vessel, in which he served, and his present place of residence. His pension certificate must accompany his letter.

In those cases where the applicants have once been on the pension-roll, under the act of March 18, 1818, and have been dropped therefrom on account of property, or from any other reason; or where the application has been made under the act of May 15, 1828, and the evidence of service is in the departments; or, having made application and proof of service, and having been rejected, instead of the above declaration they will make a statement, setting forth, under oath, their having been previously on the pension-roll, and their having been struck from the same, showing their rank, the regiment, corps, or vessel, in which they served, their present place of residence when the first application was made, or of their application under the act of 15th of May, 1828.

In a case where a claimant may make personal application at this department, and can produce satisfactory proof of service, and of his identity also at the seat of government, he may make his declaration before a justice of the peace.

2. The case of the State troops, volunteers, and militia, is different. There are, in the department, no rolls of the State troops, except those of Virginia; and no rolls of the militia, except those of New Hampshire.

Applicants who served in the State troops of Virginia, and applicants who served in the militia of New Hampshire, will be required to produce the same proof as is prescribed for those who served upon the continental establishment. But with respect to the other State troops and militia, there is no record to advert to, and no presumption to be rebutted. The nature of the case, therefore, demands a different rule of proceeding.

Every applicant who claims a pension by virtue of service in the State troops, volunteers, or militia, except as is above provided, will make and subscribe the following declaration:

DECLARATION

In order to obtain the benefit of the act of Congress passed June 7, 1832.

STATE, (TERRITORY, OR DISTRICT) OF , } ss:
County of }

On this day of , personally appeared (*a*) in open court, before the court of , now sitting, A B, a resident (*b*) of , in the county of , and State, Territory, or District of , aged (*c*) years, who, being first duly sworn according to law, doth, on his oath make the following declaration, in order to obtain the benefit of the act of Congress, passed June 7, 1832:

That he entered the service of the United States under the following named officers, and served as herein stated:

[Here set forth the names and rank of the field and company officers; the day, (if possible,) and the month and year (*d*) when the claimant entered the service, and the time when he left the same; and if under more than one engagement, he must specify the particular periods, and the rank and names of his officers; the town, the county, or State in which he resided; when he entered the service; whether he was draughted, was a volunteer, or a substitute; the battles, if any, in which he was engaged; the country through which he marched; the continental regiments or companies with which he served; and the names of some of the regular officers whom he knew; together with such further particulars (*e*) as may be useful in the investigation of his claim: and also, if the facts be so, that he has no documentary evidence; and that he knows of no person, whose testimony he can procure, who can testify to his service.]

He hereby relinquishes (*f*) every claim whatever to a pension or an-

---

(*a*) The declarant must appear in open court, unless prevented from doing so by reason of bodily infirmity; in which case, the declarant will follow the rule laid down for his guidance.

(*b*) The declarant must make his declaration in the county where he resides. If he should fail to do so, he must assign a sufficient reason for not conforming to the rule.

(*c*) The age of the claimant must invariably be mentioned.

(*d*) The declarant must mention the period or periods of the war when he served.

(*e*) Every continental officer or soldier must give the name of the colonel under whom he served; otherwise, a satisfactory examination of the claim cannot be had. Every claimant must state, with precision, the length of his service, and the different grades in which he served, in language so definite as to enable the department to determine to what amount of pension he is entitled. In a case where the applicant cannot, by reason of the loss of memory, state precisely how long he served, he should amend his declaration, by making an affidavit in the following words: "Personally appeared before me, the undersigned, a justice of the peace, &c., A B, who, being duly sworn, deposeth and saith that, by reason of old age, and the consequent loss of memory, he cannot swear positively as to the precise length of his service, but, according to the best of his recollection, he served not less than the periods mentioned below, and in the following grades: For year, months, and days, I served as a . For months and days, I served as a , and for such service I claim a pension."

It is important, in all cases, to determine with precision, the period for which each applicant served, and the particular rank he held, as the law directs the pension to be paid according to the grade of the pensioner and the length of his service. The use of the phrase "*about three or four months*," is too indefinite, and all such qualifying expressions are objectionable. Some persons who apply for pensions merely state that they served two years in the militia, &c, without specifying the tours, the names of the officers, and other particulars respecting their service. This form of a declaration is highly objectionable. It must, in every case, be clearly shown under what officers the applicant served, the duration of each term of engagement, the particular place or places where the service was performed, that the applicant served with an embodied corps called into service by competent authority, that he was either in the field or in garrison, and, for the time during which the service was performed, he was not employed in any civil pursuit."

(*f*) The law makes the relinquishment indispensable.

nuity, except the present; and declares that his name is not on the pension-roll of the agency of any State, or, if any, only on that of the agency of the State of .

Sworn to and subscribed the day and year aforesaid.

C. D.

[And then will be annexed the following certificate:]

We, A B, a clergyman, residing in the , and C D, residing in (the same,) hereby certify, that we are well acquainted with , who has subscribed and sworn to the above declaration; that we believe him to be years of age; that he is reputed and believed, in the neighborhood where he resides, to have been a soldier of the Revolution; and that we concur in that opinion.

Sworn and subscribed the day and year aforesaid.

[And then will follow the certificate of the court.]

And the said court do hereby declare their opinion (*g*) after the investigation of the matter, and after putting the interrogatories prescribed by the War Department, that the above named applicant was a revolutionary soldier, and served as he states. And the court further certifies, that it appears to them that A B, who has signed the preceding certificate, is a clergyman, resident in the , and that C D is a credible person; and that their statement is entitled to credit.

I, , clerk (*h*) of the court of , do hereby certify that the foregoing contains the original proceedings of the said court in the matter of the application of for a pension.

In testimony whereof, I have hereunto set my hand and seal (*i*) of office, this day of, &c.

The form of the proceedings, and of the certificates, will be so varied as to meet the case, when the declaration is made out of court, before a judge, as heretofore provided for.

(*g*) The opinion of the court is always required.

(*h*) The clerk must give his certificate in every case.

(*i*) The clerk must affix his seal; and if it has no device or inscription by which it can be distinguished from any other seal, or if he has no public seal of office, the certificate of a member of Congress, proving the official character and signature of the certifying officer, should accompany the papers.

Mode of authenticating papers.

In every instance where the certificate of the certifying officer who authenticates the papers is not written on the same sheet of paper which contains the affidavit, or other papers authenticated, the certificate must be attached thereto by a piece of tape, or narrow riband, the ends of which must pass under the seal of office of the certifying officer, so as to prevent any paper from being improperly attached to the certificate.

Proof of service.

(*j*) In a case where the name of the applicant is not found on the records of the department, he must prove his service by two credible witnesses, who are required to set forth in their affidavits the time of the claimant's entering the service, and the time and manner of his leaving the same, as well as the regiment, company, and line to which he belonged. The magistrate who may administer the oaths must certify to the credibility of the witnessess; and the official character and signature of the magistrate must be certified by the proper officer, under his seal of office.

☞ The notes from (*a*) to (*i*) are all equally applicable to the cases of militiamen, volunteers, and State troops. The proof required by rule, in note (*j*,) applies to continental troops only, or in militia cases in which muster-rolls exist.

(*k*) This traditionary evidence is indispensable in militia cases.

Every applicant will produce the best proof in his power. This is the original discharge or commission; but if neither of these can be obtained, the party will so state under oath; and will then procure, if possible, the testimony of at least one credible witness; stating, in detail, his personal knowledge of the services of the applicant, and such circumstances connected therewith as may have a tendency to throw light upon the transaction.

If such surviving witness cannot be found, the applicant will so state in his declaration;(*l*) and he will also, whether he produce such evidence or not, proceed to relate all the material facts which can be useful in the investigation of his claim, and in the comparison of his narrative with the events of the period of his alleged service, as they are known at the department. A very full account of the services of each person will be indispensable to a favorable action upon his case. The facts stated will afford one of the principal means of corroborating the declaration of the applicant, if true, or of detecting the imposition, if one be attempted; and unless, therefore, these are amply and clearly set forth, no favorable decision can be expected. All applicants will appear before some court of record in the county in which they reside, and there subscribe and be sworn to one of the declarations above provided, according to the nature of his case.

The court will propound the following interrogatories (*m*) to all applicants for a pension, on account of service in the militia, State troops, or volunteers, except the militia of New Hampshire and the State troops of Virginia:

1. Where, and in what year, were you born?
2. Have you any record of your age? and, if so, where is it?
3. Where were you living when called into service; where have you lived since the revolutionary war; and where do you now live?
4. How were you called into service; were you draughted, did you volunteer, or were you a substitute; and, if a substitute, for whom?
5. State the names of some of the regular officers who were with the troops where you served; such continental and militia regiments as you can recollect; and the general circumstances of your service?
6. *To a soldier.*—Did you ever receive a discharge from the service; and if so, by whom was it given; and what has become of it?

To an officer.—Did you ever receive a commission; and, if so, by whom was it signed; and what has become of it?

7. State the names of persons to whom you are known in your present neighborhood, and who can testify as to your character for veracity, and their belief of your services as a soldier of the Revolution.

The court will see that the answers to these questions are embodied in the declaration, and they are requested to annex their opinions of the truth of the statement of the applicant.

The applicant will further produce in court, if the same can be done, in the opinion of the court, without too much expense and inconvenience to him, two respectable persons, (one of whom should be the nearest clergyman, if one lives in the immediate vicinity of such applicant,) who can testify, from their acquaintance with him, that they believe he is of the age he represents, and that he is reputed and believed in the neighborhood

(*l*) If a witness cannot be found, the declarant must state the fact.

(*m*) The answers to the interrogatories must all be written, and sent to the War Department with the declaration.

to have been a revolutionary soldier, and that they concur in that opinion. If one of these persons is a clergyman, the court will so certify; and they will also certify to the character and standing of other persons giving such certificates.

The traditionary evidence of service is deemed very important (*k*) in the absence of any direct proof, except the declaration of the party; and the courts are requested to be very particular in the inquiry whether the belief is general, and whether any doubts have ever existed upon the subject. To require from the applicants positive proof of service from a contemporary survivor, would, after the lapse of so many years, be to deprive many of them of the benefit of the law; and, as no presumption is raised against the militia by the existence of rolls in the department, there is no good reason why this requisition should be extended to them. On the other hand, to receive the declaration of the parties as a sufficient ground for placing them upon the pension-roll, without corroborating circumstances, would be to open the treasury to great frauds. A just medium seems to present the best rule for carrying into effect the objects of Congress.

If the two persons whose certificates are required cannot be produced in court without too much inconvenience and expense to the applicant, then the statement of the facts and opinions above mentioned will be made under oath, before some judge or justice of the peace; and the certificate of the court to the situation and credibility of the persons making the statement will be given.

Applicants unable to appear in court by reason of bodily infirmity, may make the declaration before required, and submit to the examination before a judge or justice of a court of record of the proper county, and the judge or justice will execute the duties which the court is herein requested to perform, and will also certify that the applicant cannot, from bodily infirmity, attend the court.

Whenever any official act is required to be done by a judge or justice of a court of record, or by a justice of the peace, the certificate of the Secretary of State or Territory, or of the proper clerk of the court or county, under his seal of office, will be annexed, stating that such person is a judge or justice of a court of record, or a justice of the peace, and that the signature annexed is his genuine signature.

3. Persons serving in the marine forces.

4. Indian spies.

Each of these two latter classes of cases will produce proof, as nearly as may be, conformably to the preceding regulations, and authenticated in a similar manner, with such variations as the different nature of the service may require. No payments can be made on account of the services of any person who may have died before the taking effect of the act of June 7, 1832; and, in case of death subsequent thereto, and before the declaration herein required is made, the parties interested will transmit such evidence as they can procure, taken and authenticated before a court of record, showing the services of the deceased, the period of his death, the opinion of the neighborhood respecting such services, the title of the claimant, and the opinion of the court upon the whole matter.

☞ By the resolution of Congress of the 14th July, 1832, the time of imprisonment as a prisoner of war shall be taken and computed as a part of the period of service, in the execution of the act of June 7, 1832.

A commission not indispensable in all cases to entitle an officer to a pension.

WAR DEPARTMENT,
Pension Office, January 15, 1833.

SIR: I have the honor to report the question made by the representatives of Peter S. Schuyler, agreeably to your instructions. The accompanying paper, marked A, presents the question, and the facts which enter into its merits. B is the extract of the minutes of the provincial Congress, relied upon by the representative; and C, a copy of the proposed answer of the department.

JAMES L. EDWARDS.

The Hon. L. CASS,
Secretary of War.

The within question has been referred to the Attorney General. He is of opinion that service in a military office, even although the commission may not be issued, or may not date back to the commencement of the service, entitles the person to a pension for such service. See the rule be so applied in this case.

LEWIS CASS.

Regulations respecting the payments of arrears to the children of deceased pensioners.

WAR DEPARTMENT,
November 9, 1833.

In a case where the residence of all the children of a deceased pensioner cannot be ascertained, those who are known to be living must prove their relationship to the deceased before a court of record; they must show that the pensioner left no widow; that the children, who are in parts unknown have not been heard of for at least one full year, and that exertions have been made, without success, to ascertain their residence. Their names must be given. The court must give a certificate containing the facts, and the clerk of the court must sign the same, and annex thereto his seal of office. In such a case, the amount due will be paid to those who are known to be living; and all that is due must be paid at one time.

In a case where there is no widow, and the children who survive reside at a considerable distance from each other, and it is difficult or impracticable to obtain information or powers of attorney from those who live remote from the pension agency, the amount due to each child may be paid, upon proper vouchers when demanded, without requiring all the children to make application at the same time.

LEW. CASS.

Evidence of a commission necessary in certain cases.

WAR DEPARTMENT, *February* 21, 1833.

Claims are frequently presented, under the act of 7th of June, 1832, of persons who allege that they acted as officers without receiving commis-

sions. Such applications should be received with caution, and examined with special reference to the peculiar circumstances of each case. A commission is not in every case indispensably necessary to invest a person with rank or command, or to entitle him to the emoluments of the office which he fills; but some act or instrument of writing tantamount to a commission, or promise of a commission, is deemed essential. It must in all cases be clearly shown that the person who claims as an officer, and never held a commission as such, was prevented from receiving one in consequence of peculiar circumstances over which he had no control. The mere asseveration of a person as to his having performed the duty incumbent on an officer of a certain grade, does not entitle him to the pension due to an officer of that grade.

LEWIS CASS.

Member of Congress may certify as to the character of a surgeon.

WAR DEPARTMENT, *November* 29, 1833.

The rule of November 17, 1831, is hereby so amended as to allow the certificate of a member of Congress as to the character of a surgeon or physician to be received in a case where the pensioner cannot conveniently obtain the certificate of the agent for paying pensions.

LEWIS CASS.

Testimony of two witnesses as to disability, in cases where commanding officers are dead.

WAR DEPARTMENT, *June* 17, 1834.

The rule of December 23, 1817, which requires the testimony of a commissioned officer to show the origin and nature of the corporal disability of an applicant for a pension, may be dispensed with in a case where it is clearly shown that such evidence cannot be obtained, and where other satisfactory proof of disability can be obtained. In such a case, the following rules of evidence will be adhered to:

1. The applicant must make a declaration setting forth all the material facts in the case, and the surgeons must testify as the rule of December 23, 1817, directs.

2. He must prove, by persons of known respectability, that the officers mentioned by the claimant in his deposition are dead, or removed to such a distance as to render it impracticable to obtain their affidavits. The person or persons who may give such evidence must state particularly all the knowledge they may possess in relation to the death or removal of such officers.

3. In such a case as that mentioned in rule No. 2, the applicant must produce the testimony of at least two credible witnesses, whose good character must be vouched for by some one known to this department. The witnesses must give a minute narrative of all the facts in relation to the matter, and it must be shown conclusively, by their testimony, that

the disability of the claimant is to be ascribed solely to injury sustained while the claimant was in the discharge of military duty in the service of the United States. The witnesses must show how they acquired a knowledge of the facts set forth, and state in what capacity or grade they served.

The affidavits must be authenticated in the same manner prescribed by the rule of December 23, 1817.

LEW. CASS.

Rules of evidence relative to half pay due to Virginia revolutionary officers.

WAR DEPARTMENT,
Pension Office, June 2, 1835.

Whereas the 4th section of the act of the 3d of March last, entitled "An act to continue the office of the Commissioner of Pensions," directs that the duties heretofore required of and performed by the Secretary of the Treasury, in relation to Virginia claims for revolutionary services, and deficiency of commutation, be transferred to the Department of War from and after the present month; and the Secretary of War having, by directions from the President of the United States, assigned those duties to the Commissioner of Pensions, notice is hereby given to all concerned, that communications in relation to the claims arising under the act of the 5th July, 1832, entitled "An act to provide for liquidating and paying certain claims of the State of Virginia," will in future be addressed to said Commissioner. The following regulations, which were adopted by the Treasury Department on the 28th July, 1832, to govern the accounting officers of the Treasury, will be adhered to in the settlement of the claims that may be presented at this department under the 3d section of the act of July 5, 1832:

1. The settlement to be confined to those cases of which a list has been furnished by the Auditor of the State of Virginia, as containing the names of those officers reported by the board of officers in 1782 and 1784, (including part of Colonel Crockett's regiment,) whose claims for half pay have not been satisfied, nor prosecuted in court; and of those cases in which judgments have been obtained against, but not paid by, the State of Virginia.

2. That sufficient evidence be required as to the identity of the officer on the part of whom or of whose representatives the claim is presented, and that he is still living; or, if dead, of the period of his decease.

3. If the officer be dead, that sufficient proof be required of the existence of heirs and of legal representatives really and lawfully entitled to receive the amout due.

4. Where there are no executors, but administrators, and there are heirs living, that the assent of those heirs be had to the payment of the money to the administrator, or attorney at law, or in fact, who may present himself at the department, or that satisfactory reasons be assigned why such assent be not produced.

5. That administrators in all cases be required to satisfy the accounting officers whether there be or be not heirs living; and, if there be any living, to state their names and residence; and if their be no heirs, to state the disposition to be made of the amount of the claim.

6. In the investigation of all those facts the accounting officers will require the best proof the nature of the case will admit of, if in the possession of the party applying; and if not, the want of such proof must be satisfactorily accounted for; in which case only secondary evidence will be admissible.

7. In all cases where claims are presented by executors, an authenticated copy of the will and probate must be produced.

8. No claim to be settled in favor of an assignee of a claimant.

9. Where payment is claimed by an attorney, the power of attorney must be subsequent to the passing of the law, and authorizing the attorney to act under that law.

JAMES L. EDWARDS,
Commissioner of Pensions.

A person discharged as a minor not deprived of his right to a pension.

FEBRUARY 10, 1836.

If a person enlists in the service, and, while there, is disabled, and entitled under existing laws to a pension, and subsequently discharged before the expiration of his term, as a minor, I think he does not lose his claim to a pension.

LEWIS CASS.

Declaration may be made by a relative of a claimant in case of insanity.

On consultation with the Attorney General he is of opinion, that, *in all cases* of insanity or of mental infirmity destroying the faculties, the *statement* of the nearest relatives of a person claiming a pension may be received under oath, recapitulating his own account of his *services* as given prior to such incapacity; and that, if such statement would have been *sufficient* to warrant the pension, if made by the party himself, it shall be deemed sufficient in those cases.

Let this be the rule.

LEWIS CASS.

Executors or administrators are the legal representatives in claims on account of service in the Virginia State line.

WAR DEPARTMENT, *March 5*, 1836.

SIR: In consequence of the opinion given by the Attorney General in his communication to this department of yesterday, that the executors or administrators (as the case may be) are the legal representatives contemplated by the act of Congress of the 5th July, 1832, of all deceased officers included in the act, the rule which requires that the assent of the heirs be had to the payment of the money to the administrator or attorney at law, or in fact, is hereby rescinded.

I am, respectfully,

LEWIS CASS.

To the COMMISSIONER OF PENSIONS.

Rules of evidence in widows' and orphans' claims.

WAR DEPARTMENT,
Pension Office, July 9, 1836.

In order to carry into effect the act of Congress of the 4th of July, 1836, entitled "An act granting half pay to the widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States, in certain cases, and for other purposes," the following rules have been prescribed by the President of the United States, and adopted by the Secretary of War; and they are now published for the information of applicants under that law:

1. Applicants under the first section of the act must produce the best proof the nature of the case will allow as to the service of the deceased officer or soldier; the time when he died, and the complaint of which he died, and the supposed cause of his disease. It must be clearly shown in what company, and regiment or corps, he served, and the grade he held. Such proof must be had, either from the records of the War Department, the muster-rolls, the testimony of commissioned officers, or the affidavits of persons of known respectability. From similar sources evidence must be derived as to the period and cause of the death of the officer or soldier.

2. The legality of the marriage, the name of the widow, with those of her children who may have been under sixteen years of age at the time of the father's decease, with the State or Territory and county in which she and they reside, should be established. The legality of the marriage may be ascertained by the certificate of the clergyman who joined them in wedlock, or the testimony of respectable persons having knowledge of the fact. The age and number of children may be ascertained by the deposition of the mother, accompanied by the testimony of respectable persons having knowledge of them, or by transcripts from the parish rigisters, duly authenticated. The widow, at the time of allowing the half pay, or placing her on the list for it, must show that she has not again married, and must, moreover, repeat this at the time of receiving each and every payment thereof; because, in case of her marrying again, the half pay to her ceases, and the half pay for the remainder of the time shall go to the child or children of the decedent. This may be done by the affidavits of respectable persons having knowledge of the case.

3. In cases where there are children and no widow, their guardian will of course act for them, establish their claims as prescribed in the foregoing regulations, and receive their stipends for them.

4. Applicants under the second section of the law will make a declaration before a court of record, setting forth, according to the best of her or their knowledge or belief, the names and rank of the field and company officers, the day (if possible) and the month and year when the claimant's husband or father (as the case may be) entered the service, and the time when he left the same; and if under more than one engagement, the claimant must specify the particular periods, and the rank and names of the officers under whom the service was performed; the town or county and State in which the claimant's husband or father resided when he entered the service—whether he was draughted, was a volunteer or substitute; the battles, if any, in which he was engaged; the country through which he marched, with such further particulars as may be useful in the investigation of the claim; and, also, if the fact be so, that the claimant has no documentary evidence in support of the claim.

5. The same description of proof as to the relationship of the claimant to the deceased officer or soldier will be required as the rule under the first section points out.

6. Claimants under the third section of the law must not only produce such proof as the foregoing regulations direct in relation to widows' claims, but they must, in all cases, as an indispensable requisite, show when they were legally married to the deceased officer or soldier on account of whose services the claim is presented, and that the marriage took place before the last term of service of the husband expired. They must also prove that they were never afterwards married.

7. In a case where the service of the deceased officer or soldier is clearly proved by record or documentary evidence, or the affidavit of a commissioned officer, showing the grade and length of service of the deceased, the particulars in relation to the service are not required to be set forth in the claimant's declaration, except so far as to show that the claimant or claimants is or are the widow or children of the deceased.

8. The claimant must, in every case where there is no record or documentary proof of the revolutionary service of the deceased officer or soldier, produce the testimony of at least one credible witness. Traditionary evidence will be deemed useful in every such case.

9. Applicants unable to appear in court, by reason of bodily infirmity, may make the declaration before required before a judge or justice of a court of record of the county in which the applicant resides; and the judge or justice will certify that the applicant cannot, from bodily infirmity attend the court.

10. Whenever any official act is required to be done by a judge or justice of a court of record, or by a justice of the peace, the certificate of the secretary of State or of the Territory, or of the proper clerk of the court or county, under his seal of office, will be annexed, stating that such a person is a judge or justice of a court of record, or a justice of the peace, and that the signature annexed is his genuine signature.

11. The widows of those who served in the navy, or as Indian spies, will produce proof, as nearly as may be, conformably to the preceding regulations, and authenticated in a similar manner, with such variations as the different nature of the service may require.

12. The form prescribed for claimants under the third section of the act will be observed by every other description of claimants, so far as the same may be applicable to their cases. The judge or justice who may administer an oath must, in every instance, certify to the credibility of the affiant.

13. In every case in which the deceased officer or soldier was a pensioner, the fact should be so stated; and the deceased pensioner so described as to enable the department to refer immediately to the evidence upon which he was pensioned, and thus facilitate the investigation of the claim of his widow or children.

JAMES L. EDWARDS,
Commissioner of Pensions.

DECLARATION

In order to obtain the benefit of the third section of the act of Congress of the 4th July, 1836.

STATE (TERRITORY, OR DISTRICT) OF , } ss:
County of , }

On this day of , personally appeared before the of the , A B, a resident of , in the county of , and State [Territory, or District] of , aged years, who, being first duly sworn according to law, doth, on her oath, make the following declaration in order to obtain the benefit of the provision made by the act of Congress passed July 4, 1836: That she is the widow of , who was a [here insert the rank her husband held in the army, navy, or militia, (as the case may be,) and specify the service performed, as directed in rule No. 4 of the regulations.] She further declares that she was married to the said on the day of , in the year seventeen hundred and ; that her husband, the aforesaid , died on the day of ; and that she has remained a widow ever since that period, as will more fully appear by reference to the proof hereto annexed.

Sworn to and subscribed, on the day and year above written, before

---

WAR DEPARTMENT,
Pension Office, March 15, 1837.

In a case where the claimant has married after the decease of the husband, for whose services she may claim the pension, it cannot, under the explanatory act of March 3, 1837, be withheld on account of her last marriage, provided she was a widow on the 4th July, 1836. The latter part of the 6th rule of the regulations of the 9th July, 1836, is not, of course, applicable to such a case. The facts in relation to the marriage of the last husband, and his death, should be fully set forth in the claimant's declaration.

The following is the form of a declaration in such a case:

DECLARATION

In order to obtain the benefits of the third section of the act of 4th July, 1836, and of the first section of the act of 3d March, 1837.

STATE (TERRITORY, OR DISTRICT) OF } ss:
County of

On this day of , personally appeared before the of the , A B, a resident of , in the county of , and State [Territory, or District] of , aged years, who being first duly sworn according to law, doth, on her oath, make the following declaration, in order to obtain the benefit of the provision made by the act of Congress passed July 4, 1836, and the act explanatory of said act passed March 3, 1837: That she was married to C D, who was [here insert the particulars respecting the service of the deceased husband for whose services she may claim a pension, as

directed in rule No. 4 of the foregoing regulations of July 9, 1836.] She further declares that she was married to the said C D on the day of , in the year seventeen hundred and ; that her husband, the aforesaid C D, died on the day of ; that she was afterwards married to H B, who died on the day of ; and that she was a widow on the 4th of July, 1836, and still remains a widow, as will more fully appear by reference to the proof hereto annexed.

Sworn to and subscribed, on the day and year above written, before

---

Form of oath of the officer who has the record of marriages to be used in claims under the act of July 4, 1836.

WAR DEPARTMENT,
Pension Office, August 29, 1837.

In order to prevent any mistake, or improper use that may be made of the affidavit of an officer who may have the custody of records, from which he may make transcripts of the record of a marriage, or birth, or the license to celebrate a marriage, the officer who may give his affidavit will, instead of copying the figures contained in the record, write the dates, and at the end of the extract from the records certify "that it is a true copy of the record, with the exception of the date, which is expressed on the record in fair legible figures, as follows :" [Here copy the day, month, and year, in letters and figures, in exact conformity with the original. Then let him add the following words :]

"I, A B, above named, depose and say, that I hold the office of in the county, town, and State aforesaid, and that the above is a true extract from the records of said , with the exception above named, as certified by me.

A B, *Clerk of the* .
Sworn before me, C D, *Justice of the Peace.*"

[Then will follow the certificate of the proper officer, under his seal of office, showing that C D is a justice of the peace, commissioner of deeds, notary public, or other officer duly authorized by law to administer oaths.]

☞ The oath to be taken before a duly qualified magistrate, whose official character and signature must be certified by the proper officer, under his seal of office. The county clerk, secretary of State, or some other officer, must certify, under his seal of office, that the officer who administered the oath is a justice of the peace, judge, mayor, alderman, or notary public, (as the case may be,) and that the signature purporting to be his is genuine.

In every case where the clerk of the court or other certifying officer has no public seal of office, the certificate of a member of Congress, proving the official character and signature of the certifying officer, should be sent with the papers.

Mode of authenticating papers.—In every instance where the certificate of the certifying officer who authenticates the papers is not written

on the same sheet which contains the affidavit, or other paper authenticated, the certificate must be attached thereto by a piece of tape, or small riband, the ends of which must pass under the seal of office of the certifying officer, so as to prevent any paper from being improperly attached to the certificate.

No affidavit can be admitted as evidence, if not perfectly free from erasure, interlineation, and every other alteration, unless the magistrate who may administer the oath gives a certificate showing that the alteration was made prior to the execution of the paper.

Overpayments considered as a debt in certain cases.

WAR DEPARTMENT,
Pension Office, February 20, 1837.

SIR: In relation to the case of Richard Vernon, referred to in the enclosed letter from the honorable A. P. Maury, I have the honor to make the following report:

Captain Vernon's pension of $420 for two years alleged service was granted at a time when the department possessed but an imperfect knowledge of the service of the troops with whom he served, and principally upon his own statement as to the duration of each tour of service, though he had abundant proof of his having several times been called on to perform militia duty. So soon as it was ascertained that his service fell short of one full year, the pension was reduced to $189, the amount due for eight months as lieutenant, and four months and four days as captain. In conformity with the practice of this department, the amount overpaid has been directed to be stopped from future payments. Mr. Maury appeals from the decision of this office in this case, on the ground that the retention of the pension until the government shall have been reimbursed is illegal. The question on this point is submitted to your consideration.

I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. B. F. BUTLER,
Secretary of War ad interim.

Except where the overpayment has been obtained by *fraud*, I think it most agreeable to the spirit of the pension laws to treat the overpayment in the light of money paid and received by *mistake*, and as constituting a *debt* from the pensioner to the United States, which is no bar to the payment of the pension, according to the equity of the act of 20th May, 1836.
B. F. BUTLER.

MARCH 13, 1837.

Evidence in cases where pension certificates are illegally withheld.

STATE OF _____ }
county, _____ } *ss.*

Be it known, that before me, _____ a justice of the peace in and for the county aforesaid, personally appeared _____

and made oath, in due form of law, that he is the identical named in an original pension certificate now illegally withheld by

[Here state the facts respecting the detention of the pension certificate.] that he is entitled to a pension of* dollars per month on account of wounds and disabilities received, or of services rendered to the United States during the war; that he served in Captain 's company of , in the regiment; that he now resides in , and has resided there for the space of years past; and that, previous thereto, he resided in

Sworn and subscribed this day of , 18 .

J. P.

NOTE.—The above deposition must be signed by the deponent.

STATE OF } ss.
county,

Conformably to the regulations of the War Department of the 27th of October, 1832, I, a magistrate in the county above named, do hereby certify that I have the most satisfactory evidence, viz:† that , who this day appeared before me to take the oath of identity, is the identical pensioner he declares himself to be in the annexed affidavit; and I am also satisfied that the statement made by him in relation to the pension certificate is true.

Given under my hand at , the day and year above written.

J. P.

I, , clerk of the court of county, certify that is a magistrate as above, and that the foregoing certificate, purporting to be his, is genuine.

In testimony whereof, I have hereunto affixed my seal of office, and subscribed my name, this day of , in the year .

[L. S.] *Clerk of the court of county.*

Application for an increase of pension.

It is hereby certified that formerly a of Captain 's company, in the regiment of , who, it appears by the accompanying (*a*) , was placed on the pension-

---

* This blank must be filled with the amount to which the pensioner is now entitled, which, in some cases, varies from that in the original certificate.

☞ The oath may be administered by any officer properly qualified to take affidavits.

† Here state what the evidence is; whether personal knowledge, or the affidavits of respectable persons—giving their names.

☞ The oath may be made before any officer duly authorized to administer oaths.

(*a*) The pension certificate issued from the War Office, which must be returned to the Commissioner of Pensions.

roll at the rate of dollars per month, on account, as he states, of having received a (*b*) while in the line of his duty, and in the said service, on or about the day of , in the year , at a place called , in the State (or Territory) of , is not only still disabled in consequence of the said injury, but, in my opinion is entitled to more than he already receives as a pensioner, being disabled to a degree amounting to (*c*) of a total disability.

} *Surgeons.*

Application for a transfer.

County of , ss.

On this day of , 18 , before me, the subscriber, a justice of the peace for the said county of , personally appeared , who, on his oath, declares that he is the same person who formerly belonged to the company commanded by Captain , in the regiment commanded by Colonel , in the service of the United States; that his name was placed on the pension-roll of the State of , from whence he has lately removed; that he now resides in the State (District or Territory) of , where he intends to remain, and wishes his pension to be there payable in future. The following are his reasons for removing from to :

Sworn and subscribed to before me, the day and year aforesaid.

☞ The magistrate who may administer the oaths to the surgeons must certify that they are reputable in their profession; and the official character and signature of the magistrate must be certified by the proper officer under his seal of office.

Mode of authenticating papers.—In every instance where the certificate of the certifying officer who authenticates the papers is not written on the same sheet of paper which contains the affidavit, or other paper authenticated, the certificate must be attached thereto by a piece of tape, or small riband; the ends of which must pass under the seal of office of the certifying officer, so as to prevent any paper from being improperly attached to the certificate.

(*b*) Here give a particular description of the wound, injury, or disease, and specify in what manner it has affected the applicant, so as to produce disability in the degree stated; and show its origin and progress.

(*c*) N. B.—The blank in the last line is to be filled up with the proportional "degree" of disability; for example: "three-fourths," "one-half," "one-third," &c., or "totally," as the case may be.

☞ The magistrate who may administer the oaths to the surgeons must certify that they are reputable in their profession; and the official character and signature of the magistrate must be certified by the proper officer, under his seal of office.

If the claimant is within thirty miles of an army surgeon, he must obtain his testimony.

Mode of authenticating papers.—In every instance where the certificate of the certifying officer who authenticates the papers is not written on the same sheet of paper which contains the affidavit, or other paper authenticated, the certificate must be attached thereto by a piece of tape, or small riband; the ends of which must pass under the seal of office of the certifying officer, so as to prevent any paper from being improperly attached to the certificate.

☞ No claim to an increase of pension will be examined, unless the proof be first presented to the pension agent where payment is made. He will forward the surgeons' affidavit, pension certificate, &c., to the War Department, with a statement by him that he knows the surgeons to be reputable in their profession, or believes, on the information of others, that they are so.

If the applicant was pensioned on account of a wound received previous to the late war, he should be examined by two surgeons, under a commission issued by a judge of one of the United States courts, in order to obtain an increase of his pension.

☞ The oath to be taken before a duly qualified magistrate, whose official character and signature must be certified by the proper officer, under his seal of office. The county clerk, secretary of State, or some other officer, must certify under his seal of office, that the officer who administered the oath is a justice of the peace, judge, mayor, alderman, or notary public, (as the case may be,) and that the signature purporting to be his is genuine.

The oath must be supported by the testimony of some respectable person, as to the pensioner's identity. He must swear that the person who has taken the above oath is the person described in the affidavit. The magistrate must certify that the witness is a person of veracity, and the affidavit must also be authenticated in the manner above directed.

In every case where the clerk of the court, or other certifying officer, has no public seal of office, the certificate of a member of Congress, proving the official character and signature of the certifying officer, should be sent with the papers.

Mode of authenticating papers—In every instance where the certificate of the certifying officer who authenticates the papers is not written on the same sheet which contains the affidavit, or other paper authenticated, the certificate must be attached thereto by a piece of tape, or small riband, the ends of which must pass under the seal of office of the certifying officer, so as to prevent any paper from being improperly attached to the certificate.

Application for a new certificate.

County of , *ss.*

On this day of , 18 , before me, the subscriber, a justice of the peace for the said county of , personally appeared , who, on his oath, declares that he is the same person who formerly belonged to the company commanded by Captain , in the regiment commanded by Colonel , in the service of the United States; that his name was placed on the pension-roll of the State of ; *that he received a certificate of that fact under the signature and seal of the Secretary of War, which certificate, on or about the day of* , 18 , *at or near he*

Sworn and subscribed to before me, the day and year aforesaid.

NOTES.—The last four blanks are left for the applicant to set forth the time, place, and manner of the loss or destruction of the original certificate.

The oath to be taken before a duly qualified magistrate, whose official character and signature must be properly authenticated.

If the pensioner has never received a formal certificate, but has drawn his pension on a mere notification, (as was the case, in a few instances, many years ago,) he should leave out the above words in *italics*, and insert, in lieu thereof, "*but has never received a formal certificate, and now wishes to obtain one.*"

The pensioner's oath must be supported by another person as to identity. The person must swear that he well knows him to be the same person described in the above affidavit. The magistrate must certify that the deponent is a person of veracity. This oath must also be authenticated by the certificate of the proper officer, under his seal of office, setting forth that the officer before whom the affidavit may be made is a justice of the peace, judge, or notary public, (as the case may be.) When a person acting as an agent or attorney for a pensioner loses the certificate, the affidavit of that person is also required, which must be authenticated as above.

In every case where the clerk of the court or other certifying officer has no public seal of office, the certificate of a member of Congress, proving the official character and signature of the certifying officer, should be sent with the papers.

Mode of authenticating papers.—In every instance where the certificate of the certifying officer who authenticates the papers is not written on the same sheet which contains the affidavit or other paper authenticated, the certificate must be attached thereto by a piece of tape or narrow riband, the ends of which must pass under the seal of office of the certifying officer, so as to prevent any paper from being improperly attached to the certificate.

No attention will be given to applications from persons who act as agents, unless they are known at the War Department, or are vouched for as respectable persons by some one who is known to the department.

Circular to the pension agents.

WAR DEPARTMENT,
Pension Office, June 10, 1836.

SIR: The instructions contained in the 2d section of the act of April 14, 1836, of which the following is a copy, must be strictly adhered to in making payments to pensioners:

"SEC. 2. *And be it further enacted*, That hereafter, no bank notes of less denomination than ten dollars, and that from and after the third day of March, anno Domini eighteen hundred and thirty-seven, no bank note of less denomination than twenty dollars, shall be offered in payment in any case whatsoever in which money is to be paid by the United States, or the Post Office Department; nor shall any bank note of any denomination be so offered, unless the same shall be payable and paid on demand in gold or silver coin, at the place where issued, and shall not be equivalent to specie at the place where offered, and convertible into gold or silver upon the spot, at the will of the holder, and without delay or loss to him: *Provided*, That nothing herein contained shall be construed to make any thing but gold or silver a legal tender by any individual, or by the United States."

I am, respectfully, your obedient servant,

J. L. EDWARDS.

Pension of a husband not to be deducted in certain cases.

WAR DEPARTMENT,
Pension Office, July 24, 1837.

SIR: I have the honor to state the following case for your decision:

Catharine Oakley, formerly Catharine See, was married to William Douglass, in 1778, and at different periods, before and after the marriage, he served nine months; for which service she is entitled to a pension under the 3d section of the act of July 4th, 1836. But, after the death of Douglass, she married on the 1st of March, 1832, a pensioner named William Oakley, who died on the 2d November, 1835. As by the decision of the department, in conformity with the opinion of the Attorney General, the widow of a person who was a revolutionary pensioner, and who died after the 4th March, 1831, cannot be allowed to draw from an earlier period than the day of his death, it would seem to establish the principle that the widow who may become a pensioner cannot draw pay for any period during which her husband received a stipend. If Douglass, who died in 1832, had drawn a pension up to the year in which he died, there would be no question as to the propriety of deducting the amount which he might have received. Such a deduction would be in strict conformity with the practice of the office. But a doubt arises in this case, whether the amount paid to Oakley can be deducted; because, although, as his wife, she derived some small benefit from his pension, on account of his revolutionary service, yet, as that service could not, under the act of July 4th, 1836, be availing to her, it does not appear to accord strictly with principles of justice that she should not reap all the advantages which the services of the first husband gave her. The pension of 1836 was intended as a reward for the sufferings of those women who had husbands in the service during the revolutionary struggle; and it would seem to be an infringement of their rights not to allow them the full amount to which their husbands would have been entitled under the act of June 7, 1832. I submit, therefore, the following question:

Can the pension paid to William Oakley, during the time he was husband to Catharine Oakley, be deducted from the amount due to her, under the act of July 4, 1836, on account of the revolutionary services of William Douglass, to whom she was married during said service?

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. JOEL R. POINSETT,
Secretary of War.

The pension paid to Oakley during the period he was husband of Catharine, widow of Douglass, ought not to be deducted from the pension due her on account of the services of her former husband.

J. R. P.

Rules of evidence under act of 7th July, 1838.

PENSION OFFICE, *July* 17, 1838.

The following rules, prescribed by the President of the United States, and adopted by the Secretary of War, in order to carry into effect the act

of Congress of the 7th July, 1838, entitled "An act granting half pay, and pensions to certain widows," are published for the information of applicants under that law.

1. Applicants must produce the best proof the nature of the case will allow as to the service of the deceased officer or soldier, and the time when he died. It must be clearly shown in what troop or company, and regiment or corps, he served, and the grade he held. Proof as to service must be had, either from the records of the War Department, the muster-rolls, the testimony of commissioned officers, or the affidavits of persons of known respectability. Every applicant will make a declaration according to the subjoined form, before a court (*a*) of record, setting forth, according to the best of her knowledge or belief, the name and rank of the person on account of whose service the claim is presented; the day, month, and year, (if possible,) when he entered the service, and the time when he left the same; and, if under more than one engagement, the claimant must specify the particular periods, and the rank and name of the officers under whom the service was performed; the town or county, and State, in which he resided when he entered the service; whether he was draughted, was a volunteer, or a substitute; the battles, if any, in which he was engaged; the country through which he marched, with such further particulars as may be useful in the investigation of the claim; and also, if the fact be so, that the claimant has no documentary evidence in support of the claim. From the best sources of information evidence must be derived as to the period of the death (*b*) of the officer or soldier.

2. The legality of the marriage, and the time when it took place, must be clearly established; and it must also be shown that the widow was never afterwards married. Record proof, as to the marriage, is always required, whenever it can be obtained. In a case where the town, county, parish, church, or family records afford no proof as to the period when the marriage took place, the fact must be established by the testimony of one or more respectable persons, whose credibility must be certified by the officer who may administer the oath. And, in order to prevent any mistake or improper use that may be made of the affidavit of an officer who may have the custody of records, from which he may make transcripts of the record in relation to a marriage, the officer who may give his affidavit will, instead of copying the figures contained in the record, certify "that it is a true copy of the record, with the exception of the date, which is expressed on the record in fair legible figures, as follows:" [Here copy the day, month, and year, in letters and figures, in exact conformity with the original. Then let him add the following words:]

"I, A B, above named, depose and say, that I hold the office of in the county, town, and State aforesaid, and that the above is a true extract from the records of said , with the exception above named, as certified by me.

A B, *Clerk of the*
(*or rector, or pastor, as the case may be.*)

Sworn before me, C D, *Justice of the Peace.*"

And then will follow the certificate of the proper officer, under his seal of office, as to the official character and signature of the magistrate who may administer the oath. Where no record proof exists, other than the

family record, the original record must be produced and sworn to by the person in whose possession it has been kept (*c*).

3. In a case where the service of the deceased officer or soldier is clearly proved by record or documentary evidence, or the affidavit of a commissioned officer, showing the grade and length of service of the deceased, the particulars in relation to the service are not required to be set forth in the claimant's declaration; but she must swear, in positive terms, that she is the widow of the person whose service is thus proved. And no claim whatever can be sustained without positive proof of service.

4. In every case in which the deceased officer or soldier was a pensioner, the fact should be so stated, and the deceased pensioner so described as to enable the department to refer immediately to the evidence upon which he was pensioned, and thus facilitate the investigation of the claim of the widow.

5. Applicants unable to appear in court, by reason of bodily infirmity, may make the declaration before required before a judge or justice (*d*) of a court of record in the county in which the applicant resides, and the judge or justice will certify that the applicant cannot, from bodily infirmity, attend the court.

6. Whenever any official act is required to be done by a judge or justice of a court of record, or by a justice of the peace, the certificate of the secretary of State or of the Territory, or of the proper officer or clerk of the court or county, under his seal of office, will be annexed, stating that such a person is a judge, or a justice of a court of record, or a justice of the peace, and that the signature annexed is his genuine signature.

7. The widows of those who served in the navy, or as Indian spies will produce proof, as nearly as may be, conformably to the preceding regulations, and authenticated in a similar manner, with such variations as the different nature of the service may require.

J. L. EDWARDS,
Commissioner of Pensions.

EXPLANATORY NOTES.

(*a*) The declaration of the widow who claims must be made in all cases, in open court, unless she is prevented, by bodily infirmity, from appearing before the court.

(*b*) It must, in all cases, be shown in what year the husband died. The testimony on this point must be positive, and the language must be free from all ambiguity.

(*c*) The family record must be sent to the Pension Office, if there be no other record, accompanied by the oath of the person in whose possession it has been kept. The person who may swear to the genuineness of the record should give the name of the person in whose handwriting the record was made.

(*d*) A declaration before a justice of the peace cannot be admitted as evidence.

DECLARATION.

In order to obtain the benefit of the act of Congress of the 7th July, 1838, entitled "An act granting half pay and pensions to certain widows."

STATE (TERRITORY, OR DISTRICT) OF } *ss.*

On this day of , personally appeared before the of the A B, a resident of , in the county of

, aged years, who, being first duly sworn according to law, doth, on her oath, make the following declaration, in order to obtain the benefit of the provision made by the act of Congress, passed July 7, 1838, entiled "An act granting half pay and pensions to certain widows:" that she is the widow of , who was a [here mark the rank the husband held in the army, navy, or militia, as the case may be, and specify the service performed, as directed in rule, numbered one, of these regulations.]

She further declares that she was married to the said on the day of , in the year seventeen hundred and ; that her husband, the aforesaid , died on the day of ; that she was not married to him prior to his leaving the service, but the marriage took place previous to the first of January, seventeen hundred and ninety-four, viz: at the time above stated.

Sworn to and subscribed on the day and year above written, before

---

Decision of supreme court of appeals of Virginia binding on Department of War, under act of 5th July, 1832.

WAR OFFICE, *August* 16, 1838.

The case of Doctor John Applewhaite, deceased, having been decided by the superior court of Henrico in favor of the claimant, on the principle of the half-pay cases already decided in the supreme court of appeals of the State of Virginia, the decision is, in my opinion, binding upon the department, and there is a legal obligation under the 5th clause of the last section of the act of the 5th July, 1832, to pay the money due the heir of the deceased Dr. Applewhaite.

J. R. POINSETT.

Certificate of United States judge as to the character of a surgeon.

WAR DEPARTMENT, *December* 4, 1838.

The rule of November 17, 1831, is hereby so amended as to allow the certificate of a judge of any of the United States courts, as to the character of a surgeon or physician, to be received in a case where the pensioner cannot conveniently obtain the certificate of the agent for paying pensioners.

J. R. POINSETT,
Secretary of War.

Children of soldiers, or of their widows, may draw what was due to the parents when they died, although the proof might not have been perfected at their death.

TREASURY DEPARTMENT, *March*, 29, 1839.

SIR: Yours of the 27th and 28th instant, relating to a requisition for "unclaimed pensions" issued in favor of Jesse Gove, Vermont, is received and I will delay issuing the warrant until I hear again from you.

In respect to the other point, I had always supposed that the granting a pension was a personal matter, and, when the claimant died, the claim did not descend to his heirs or representatives; or if the certificate issued incautiously to a claimant after his death, that it was void. Any other view I supposed would lead thousands to apply for pensions for their fathers and grandfathers, who may have died after the law passed, and with claims to the pensions, but who never perfected their title, and obtained the certificate while living. If the certificate issued while the claimant was living, then, of course, I supposed the heirs could receive any arrearages, and only then. If there has been an opinion of the Attorney General the other way, or any express legislation, then, of course, no doubt could be sustained in the case; but otherwise, I would thank you to lay this letter before the Secretary of War.

I am, respectfully, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

JAMES L. EDWARDS, Esq.,
Commissioner of Pensions.

TREASURY DEPARTMENT,
April 4, 1839.

SIR: Yours of yesterday is received, noting an endorsement upon a communication from this department of the 29th ultimo, by the honorable the Secretary of War, with regard to "unclaimed pensions."

The pension laws in the Navy Department are, in several respects, different from those in the War Department. In the navy they often were for *wounds* received, or were sums given for a limited term of years to maintain children of persons deceased in the service; and, generally, I suspect, required no application and *oath* by the party claiming the pension to his *poverty*, *service*, &c. But in the cases of persons in the War Department, under the act of March, 1818, if not under other acts, the *oath* of the party claiming was expressly required by regulation, if not by such laws; and I do not see how it could be dispensed with, when required by either, and especially if by law. Nor do I see how a pension could descend to the heirs if the fund was a gratuity, as in the present case, merely to *maintain* the claimant while alive, and he or she did not choose to apply for it, or did not apply and succeed in season.

But if the case in the *Navy* Department is, on examination of the facts, supposed by the Secretary of War to be similar in all respects to the present one, I shall be happy to acquiesce. Otherwise, it would seem to me expedient to take the opinion of the Attorney General in *this description* of pensions.

I am, respectfully, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

J. L. EDWARDS, Esq.,
Commissioner of Pensions.

WAR DEPARTMENT,
Pension Office, April 5, 1839.

SIR: I have the honor to acknowledge the receipt of your letter of yesterday. The endorsement of the Secretary of War, to which you allude, was not made on your letter, but on a communication made by me on the subject, a copy of which I now enclose, from which you will perceive that the practice in this office of granting to the widow or children of an officer or soldier the amount due to the deceased, although he failed to apply for it, originated in a written rule which emanated immediately from the Secretary of War in 1832. The principle appears to have been sanctioned by Congress, as it was promulgated in the regulations under the act of June 7th, 1832, and ten thousand of those regulations were printed by order of Congress. So long ago as in July, 1828, it was the practice of the Treasury Department, under the act of May 15, 1828, to pay the amount due, although the officer or soldier might not have applied. The Attorney General, however, does not appear to have been consulted on the subject.

The laws in relation to pensions granted in this office embrace every variety of descriptions that the navy pension laws provide for. The only pensions in which the widow or children are allowed any part of the pension after the officer or soldier's death, unless he made application and first established his claim, are those under the acts of May 15, 1828, June 7, 1832, July 4, 1836, and July 7, 1838. The acts in relation to invalids allow the pension from the time when the claimant completes his proof. The act of March 18, 1818, makes it indispensably necessary that the claimant should make a declaration before a court of record, and not only prove his service, but his indigence also. Those pensions also commence at the time when the officer or soldier completes his proof.

I have laid a copy of your last letter before the Secretary of War, with a copy of this communication.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. L. WOODBURY,
Secretary of the Treasury.

TREASURY DEPARTMENT, *April* 17, 1839.

SIR: Yours in reference to the claim of Mrs. Green for arrearages, or "unclaimed pensions," is received. Before issuing a warrant for so large a sum, I would be obliged to know if the Secretary of War has re-examined the law upon which the pension in this case was granted, and is, on reflection, satisfied that it is a case where the ancestor of the heir, though entitled, did not receive a certificate while living?

Respectfully, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

JAMES L. EDWARDS, Esq.,
Commissioner of Pensions.

Upon the above letter, the Secretary of War made the following endorsement:

I find, on examining into the subject, that both the invariable practice of this department under my predecessors, and the united opinions of Mr. Attorney General Wirt and Mr. Attorney General Butler, warrant the construction put upon the law by the Commissioner of Pensions.

J. R. POINSETT.

Pensions under act of July 7, 1838, to begin when the husband's pension terminated in certain cases.

WAR DEPARTMENT,
Pension Office, April 1, 1839.

SIR: At the instance of A. Ward, esq., of Sing Sing, New York, I enclose herewith three letters touching the case of Abigail Delamater. This is a case in which Mr. Ward appeals from the decision of this office. The grounds of his appeal will be seen in his letter of the 25th ultimo. Under the law of July 4th, 1836, the pension is directed to commence on the 4th of March, 1831, and in all cases it does commence on that day, provided the husband was not a pensioner at that time, but if he was a pensioner after the 4th of March, 1831, the practice is to commence the pension on the day when he died, because it is believed that it was not the intention of Congress to permit the widow to receive a pension for any part of the time during which the husband was a pensioner. The Attorney General, in his opinion on this subject, dated the 13th of April, 1837, says that "in all cases where the husband was in the receipt of a pension [after the 4th March, 1831,] under any of the revolutionary pension laws, until the time of his death, the pension of the widow, under the act of July 4th, 1836, can only commence from the date of her husband's death. This is evidently the general principle of the law." Now, the principle I understand to be the same in both laws, from the close analogy which exists between the two classes of cases. Mrs. Delamater's husband, Isaac, was a pensioner under the act of June 7th, 1832, and died on the 9th of July, 1837. Up to the day of his death the pension was paid, and her pension commenced when his terminated. This is the rule under the act of 1836, supported by the opinion of the Attorney General; and the same rule has obtained under the act of 1838. If the decision be erroneous, the Secretary of War, or the Attorney General, will reverse it.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

HON. J. R. POINSETT,
Secretary of War.

This letter was endorsed by the Secretary of War in the following words:

This opinion and decision of the Commissioner of Pensions are fully concurred in by me, and are so clearly right and so entirely in conformity with the opinion of the late Attorney General, that it is not deemed necessary to consult Mr. Grundy on the subject.

J. R. P.

Children of the widow, and not an executor, entitled to the amount due her.

WAR DEPARTMENT, *January* 25, 1840.

The widow of ——— Knowles, an officer of the revolutionary army, had children by him, who survived him, and some or all of them are still living. After his death, she intermarried with ——— Foot, and had issue by him, who are now in being. She applied in 1839 for a pension, under the 3d section of the act of July 4, 1836, in right of the services of Knowles, she having again become a widow before the passage of the above law, which brought her within the provision of the act of 3d March, 1837. Mrs. Foot died a few days before the certificate of pension was issued to her, leaving a will by which she bequeathed the pension, and appointed her son, James Foot, executor.

The inquiry is, 1st. Does the pension go to her legatee, and is her executor entitled to receive it as her legal representative, for distribution according to the will? If not, 2d. Are the children of Knowles entitled to receive it in exclusion of those of her second husband, or is it legally payable to the children of both marriages, as the personal representatives of their mother?

I am of opinion that it does not belong to the executor, as the legal representative of Mrs. F. Pensions are *donations*, made in consideration of meritorious services, and as such may be accompanied by such limitations as it is the pleasure of the donor to impose. The whole system shows that the object of Congress was to provide the means of subsistence and comfort to the individual who rendered the service, or to those who are near to him and hence they provided that it should not be assigned, pledged, or made subject to debts. The second section of the act of 2d March, 1829, expressly provides for the payment of any arrears which may be due to a revolutionary pensioner, at his death, to his widow, or, if she be dead, to his children; and the same provision, in substance, is made by the fourth section of the act of 7th June, 1832. So, in the first and second sections of the law of 4th July, 1836, (under the third of which the pension in question was granted,) by which pensions may be granted to the widows and children of officers and soldiers, the same principle is incorporated. The ordinary line of distribution of decedents' personal estates is broken, and such direction given to the avails of the gift as would be most likely to benefit those who were dependant on the pensioner, or were of his blood. This is a leading feature in the system, and, taken in connexion with the absolute freedom of the pension from all power of transfer or liability for debt, seems to show conclusively that the executor can have no right to receive payment of the fund; for, to give it that direction, would be a virtual transfer of the pension, and appropriate it to Mrs. Foot's debts; or, if not necessary for that purpose, give the whole of it, by her will, to a person alien from Knowles, "the husband for whose services" (in the words of the law of 1837) she obtained the pension. In direct support of this view is the opinion of Mr. Attorney General Butler, of 24th October, 1836.

The second question is more difficult. The provisions of the several acts of Congress in relation to pensions, regarded as a whole, indicate very plainly the intention of Congress, that the children of the pensioner should enjoy, after his widow, whatever money was due and undrawn at his death, or at the death of the widow, when he left one. It is true, the

first section of the act of 4th July, 1836, contains the only provision, *in verbis*, for payment of fractional sums due at the death of the widow to the children of the pensioner; but the fourth section of the act of 7th June, 1832, directs payment of fractional sums, due at his death, to his widow; or, if there be none, to his children; and a similar provision will be found in the act of 2d March, 1829, and the second section of the act of 4th July, 1836. These provisions have always been construed liberally. For instance, by the law of July, 1836, (section 1.) a pension for five years is given to the widows of officers and soldiers; or, if there be no widow, to his child or children under sixteen years of age; and, if the widow die or marry during the five years, over to the child, &c. The Attorney General, on 3d August, 1836, decided that if the widow married before the passage of the law, the child or children might come in and receive the pension, the case being within the equity of the statute. The particular case in hand is under the third section of the law of 1836, which grants pensions to the widows of revolutionary officers and soldiers, whose marriage took place during the last period of his service, during the time she may remain unmarried; that is, during her life, if she so long continues single. There is no provision for any arrears due at her death. In accordance with what I believe to have been the intention, I would, if I could, say that I thought the money due on the pension certificate should go to Knowles's children, in exclusion of those of Foot. Knowles was the meritorious cause of the bounty to his widow, who claims, as the law of 1837 expresses it, for his services. But it is a gift to her. If there was no widow, under this particular section of the law, differing from other provisions, there could be no grant to the children of Knowles. It is to her alone the pension is given. It must be vested in her; otherwise, the money being undrawn, and the certificate even not issued while she lived, it would have lapsed into the treasury of the United States. To this point the opinion of the Attorney General of 13th April, 1837, is express that it vested in her on the passage of the law, and was not, for that reason, defeated by her omission to apply for it, and "goes, on her death, to *her personal* representatives." Those personal representatives are her children by Knowles and by Foot.

The executor is not entitled to receive the pension as the legal representative of the widow, for distribution, according to the will; nor does it belong to him in any manner. It must go to her children by Knowles and by Foot, as her personal representatives.

J. R. P.

Regulations observed in paying navy pensions.

PENSION OFFICE, *May*, 1840.

The agents for paying navy pensions are directed to observe the following rules:

1st. The identity of the pensioner must be proved by the exhibition of his certificate, and by his oath and signature, before a justice of the peace, or other officer duly qualified to administer oaths, in accordance with the subjoined form, marked A.

2d. If application be made by, or on behalf of, a widow, proof of her identity, that she is still living, and has not intermarried, must be furnished according to the form herewith, marked B.

3d. Payments to a guardian will be made on evidence that the child or children are living, and that they are not over sixteen years of age; and a certificate from the proper authority that he is, *at the time*, acting in that capacity, agreeably to the annexed form, marked C.

4th. All pensions unclaimed for two years and upwards will, previous to payment, be referred by the agent, with all the documents, to the Fourth Auditor of the Treasury for investigation: and, if found correct by the accounting officers, they will be returned to the agent for payment.

5th. No payments of pensions will be made for a less period that six months, either by the agents or the Fourth Auditor, except in the first payments becoming due to pensioners, or where they shall die, or the pension expires, previous to the time for the regular semi-annual payments.

J. L. EDWARDS,
Commissioner of Pensions.

A.

STATE OF
county, } *sct.*

Be it known, that before me, a * in and for the county aforesaid, personally appeared (*a*) a (*b*) pensioner, and made oath in due form of law that he is the identical (*a*) named in an original certificate of pension, bearing date at the Navy Department, on the day of , and signed by (*c*) Secretary of the Navy; which certificate he exhibited to me, and by which it appears that he is entitled to a pension of dollars per month. (*d*)

Sworn and subscribed this day of before me.

Justice of the Peace.

The above deposition must be signed by the deponent, and bear date not more than thirty days anterior to the time of the semi-annual payment.

Notes to form A.

(*) Justice of the peace, or other officer, as the case may be.
(*a*) Name of the pensioner.
(*b*) *Navy or privateer*, as the case may be.
(*c*) Name of the Secretary who issued the certificate.
(*d*) Signature of the deponent.

B.

STATE OF
county, } *sct.*

Be it known, that before me, a (a) in and for the county aforesaid, personally appeared (b) widow of (c) and made oath in due form of law, that she is the identical (b) named in an original certificate of pension, bearing date at the Navy Department, on the day of , and signed by (d) Secretary of the Navy; which certificate she exhibited to me, and by which it appears that she is entitled to a pension of dollars per month, and that she has not intermarried, but continues the widow of the above mentioned (c)

Sworn and subscribed this day of (e) 18 , before me.

Justice of the Peace.

This affidavit must be signed by the deponent, and bear date not more than thirty days anterior to the time of the semi annual payment.

C.

STATE OF
county, } *sct.*

Be it known, that before me, a (a) in and for the county aforesaid, personally appeared (b) guardian of (c) orphan child of (d) and made oath in due form of law, that he is the guardian named in the accompanying certifiate of guardianship; that his said wards are the children of (d) referred to in an original certificate of pension, bearing date at the Navy Department, on the day of , and signed by (e) Secretary of the Navy; by which it appears (f) entitled to a pension of dollars per month, and that said child (g) still living, and not over sixteen years of age.

Sworn and subscribed this day of (h) 18 , before me.

Justice of the Peace.

Notes to form B.

(a) Justice of the peace, or other officer, as the case may be.
(b) Name of the widow.
(c) Name of the deceased husband.
(d) Name of the Secretary who issued the certificate.
(e) Signature of the widow.

Notes to form C.

(a) Justice of the peace, or other officer, as the case may be.
(b) Name of the guardian.
(c) Name of the child or children
(d) Name of the deceased father.
(e) Name of the Secretary who signed the certificate.
(f) He, she, or they, is or are, as the case may be.
(g) Is or are, as the case may be.
(h) Signature of the guardian.

The failure to return to duty after captivity viewed as desertion.

PENSION OFFICE,
August 31, 1840.

SIR: I have the honor to ask your opinion upon the following case:

In April, 1776, Michael Mahoney, a native of Ireland, then residing in Frederick county, Maryland, enlisted into the 7th regiment of the Maryland line, and was taken prisoner on 22d August, 1776, in the battle on Staten Island. After a detention of several months (he estimates it at nine months) in the "sugar house" and "prison-ship," he left the depot of prisoners, "by choice to go to Cape Breton to work the coal mines there, with fourteen others. After reaching Cape Breton they were not permitted to leave the island till the close of the war. There was no military stationed there. He received no pay or wages for getting coal, &c. Provisions were regularly served out to the prisoners," &c. After the war, he continued to reside in Nova Scotia to the present time. As he voluntarily exchanged the situation of a prisoner of war for that of an employée in the civil service of the enemy, he cannot claim for *captivity* during such employment.

But the question which I have the honor to submit, is, whether it be not such an abandonment of his enlistment as to draw after it, like desertion, the forfeiture of all claims founded upon the merits of a *previous* service.

The claimant is awaiting your decision upon this point, and it would confer a great favor upon him to have the earliest attention of the department.

I have the honor to be, very respectfully, your obedient servant,
J. L. EDWARDS.

Hon. JOEL R. POINSETT,
Secretary of War.

The claimant having abandoned the service of the United States during the war, and not having fulfilled his engagement, is not entitled to a pension.

J. R. P.

Pensions unclaimed for fourteen months payable at the Treasury Department.

PENSION OFFICE,
August 30, 1842.

The act of the 6th April, 1838, which required that all pensions remaining unclaimed for eight months should be paid at the Treasury Department, has been repealed by the 3d section of the act of the 23d August, 1842, which is in the following words:

"SEC. 3. *And be it further enacted*, That so much of an act entitled 'An act directing the transfer of money remaining unclaimed by certain pensioners, and authorizing the payment of the same at the treasury of the United States,' approved April sixth, eighteen hundred and thirty

eight, as requires pensions that may have remained unclaimed in the hands of pension agents for eight months to be returned to the treasury, be, and the same is hereby repealed, and that the time within which such pensions shall be returned to the treasury be, and the same is hereby extended to fourteen months; subject to all the other restrictions and provisions contained in the said act."

For carrying into effect the provisions of the law above quoted, no new forms have been prescribed. The agents have been directed to pay all pensions except those unclaimed for fourteen months after they become due and payable. Pensions unclaimed for that length of time are payable at the treasury; and vouchers drawn up according to the usual forms and sent to the Third Auditor, will be attended to.

If the pension be paid to an attorney, it is necessary that such attorney make oath as required by law, and in the form prescribed by the circular from the Second Comptroller's office of June 30, 1833, that the power to receive the pension was not given him by reason of any sale, transfer, or mortgage.

As no pension can be paid at the treasury under the act of August 23, 1842, unless the money has remained in the hands of a pension agent unclaimed for fourteen months after it became due and payable, whenever application shall be made to the accounting officers of the treasury for the payment of a pension, a part only of which has been due and payable for that term of time will be admitted and paid at the treasury, and the balance will be payable by the pension agent until that shall have remained unclaimed from such agent for the term of fourteen months after it became payable.

J. L. EDWARDS,
Commissioner of Pensions.

Second marriage no bar to a claim under the act of July 7, 1838, if the claimant be a widow at the time of her application.

PENSION OFFICE,
November 14, 1842.

SIR: I have the honor to enclose herewith the declaration of Mary Button, who claims a pension under the act of 7th July, 1838, and the act supplementary thereto of 23d August last, for the services of her first husband, Jonathan Hale, with a letter from Jesse Charlton, esq., appealing from the decision of this office. Her claim was rejected upon the ground that she was not a widow at the date of the passage of the act of 7th July, 1838.

The act of 7th July, 1838, it is admitted, required that a claimant should be, at the date of its passage, the widow of the officer or soldier who rendered the service. The act of 23d August last, as originally reported, consisted of two sections, viz: 1st. Declaring that the marriage of the widow after the death of her husband, for whose services she claims, shall be no bar to the claim of such widow, "she being a widow at the time she makes application for a pension." 2d. Declaring that the widows of such officers and soldiers as *have died since the passage* of the acts of 4th

July, 1836, and 7th July, 1838, and the widows of such as shall hereafter die, shall be entitled to pensions under those acts, respectively, they being otherwise entitled thereto, and widows at the time application for a pension is made.

It is apparent from the first section, which constitutes the new law, that its only object was to place those widows of revolutionary men who had married a second time upon the same, and no better footing, under the act of 7th July, 1838, than those who were originally embraced by its provisions, viz: widows of the soldiers who rendered the service. If the construction contended for be given to the clause, the benefit of the act of 7th July, 1838, would be extended to those who, claiming for the services of their first husbands, became the *widows* of the second subsequently to the passage of the act, and withheld from those who, having married revolutionary soldiers, became the widows of such soldiers subsequently to the passage of the act. If the words "she being a widow at the time she makes application for a pension" had not been introduced, the section would have accorded the pension which the military merit of the first husband might claim under the act of the 7th June, 1832, to the feme covert of a second marriage: and if this pension were allowed as claimed, it would be computed for five years from 4th March, 1836, to 4th March, 1841, during 4 years and 6 months of which she was not a widow.

This construction of the act of 23d August last is not only borne out by its phraseology, and the provisions of the original act, but the second section, which provided, *in totidem verbis*, for such cases as the present, and was stricken out by the Senate.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS,
Commissioner of Pensions.

Hon. John C. Spencer,
Secretary of War.

I must differ from the Commissioner of Pensions in his construction of the act of August 23, 1842. The act of 1838 provided for those who were widows at the time of its passage; that is, it excluded those who were married at that time. Now, the act of 1842 declares that the marriage of a widow (at any time) after the death of the soldier, shall not be a bar to her claim for a pension. It, therefore, in terms, repeals the provision of the act of 1838, referred to.

I do not perceive how this construction will "withhold from those who, having married revolutionary soldiers, became the widows of such soldiers subsequently to the passage of the act;" on the contrary, the construction I give embraces them, and it is the only one that will include them. I cannot doubt the meaning of the sections. The second clause, as reported, embraced a particular class, who were already provided for by the first section, and it was needless. I think the claimant is entitled to her pension.

J. C. SPENCER.

November 17, 1842.

Benefits of the joint resolution of August 16, 1842, *extended to those widows only who were then living.*

PENSION OFFICE, *February* 4, 1843.

SIR: In obedience to your orders, I have to submit the following report upon the appeal of Mr. Colton, in the cases of Elizabeth Wilcox, Betty Lacy, and Susannah Osborne. The above widows were allowed pensions under the act of 7th July, 1838, and as their husbands had drawn pensions to a date subsequently to the 4th of March, 1836, their pensions commenced the day the pensions of their respective husbands terminated. By the joint resolution of the 16th of August, a full five years' pension is accorded, under the act of 7th July, 1838, to all widows of revolutionary soldiers whose marriage took place before 1794, without regard to the pensions which their husbands may have received. The above widows died before the extension of the act by that resolution, and the claims of their children to the arrears due under that extension have been rejected, upon the ground that their claims were fully adjusted under existing laws in their lifetime; and that, having died before the extension of the act, no right was vested, by that resolution, in deceased widows, which the children may assert and enjoy. From that decision Mr. Colton makes his appeal.

Mr. Colton is mistaken in supposing that the widows of revolutionary men, who died subsequently to the passage of the act of the 7th July, 1838, have been allowed pensions before the passage of the joint resolution of the 16th of August last.

In the case of Abigail Tracy, deceased, the amount was allowed by the mistake of the clerk who examined the claim. In his anxiety to despatch a great deal of business, he overlooked the date of the widow's death.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. JOHN C. SPENCER,
Secretary of War.

I concur in the construction given by the Commissioner of Pensions to the joint resolution of 16th August, 1842. That resolution, although negative in its terms, is affirmative in its operation, and removed an impediment which prevented widows, then living, from receiving pensions in cases where their husbands had died after 1832, and it could apply only to those then living; the pensions to widows being always intended for their own personal benefit.

J. C. SPENCER.

FEBRUARY 6, 1843.

Surgeons, under act of 7th June, 1832, *entitled to the highest rate of pension, according to length of service.*

PENSION OFFICE, *March* 15, 1843.

SIR: The application of Mercy Richardson, to be allowed a pension of six hundred dollars per annum, under the act of 4th July, 1836, for the

service of her late husband, as surgeon, has been examined and disallowed.

The rate of pension to which surgeons are entitled under the act of 7th June, 1832, presented a question of some difficulty and was at one time established at six hundred dollars per annum; but at a subsequent time it was decided by the Attorney General that the proper allowance was four hundred and eighty dollars per annum. To that decision the practice of this office has uniformly adhered; and upon a late appeal, it has again received the sanction of the Secretary of this department.

I am, very respectfully, your obedient servant,

J. L. EDWARDS.

ALEXANDER RAY, Esq.,
Present.

Although the opinion of the Attorney General, referred to by the Commissioner of Pensions, had reference only to the cases of surgeons, it applied as well to others involving the same principles, such as those of Maj. Popham, Mr. Duponceau, and others, both of the staff and line, and of the staff only; and as in those cases the principle of that opinion has been departed from, and pensions have been granted according to the pay in the staff, those of surgeons should be placed upon the same footing. The increase of pension asked for in this case, is therefore granted.

J. M. PORTER.

WAR DEPARTMENT, *November* 14, 1843.

Desertion forfeits all right to a pension.

PENSION OFFICE, *June* 27, 1843.

SIR: On the 1st of March last, an act was passed granting to Mary Williams a pension equal to what her husband, Jacob Williams, would have been entitled for his revolutionary services had he been living on the 7th June, 1832. It appears, from an examination of the muster-rolls, that her husband deserted the service in 1782, and never returned to the army. By that act he forfeited all claim to bounty-land, pay, pension, and every gratuity whatever. If, therefore, he had been living on the 7th June, 1832, he would not have received any pension. The question is respectfully submitted, whether I shall issue a certificate of pension for your signature or not. It appears to me that the law cannot be executed, consistently with the uniform practice under the revolutionary pension laws.

I have the honor to be, very respectfully, your obedient servant.

J. L. EDWARDS.

HON. JAMES M. PORTER,
Secretary of War.

Concurring in the views taken by the Commissioner of Pensions, I do not think that she can be placed on the pension-roll.

J. M. PORTER.

WAR DEPARTMENT, *June* 27, 1843.

A widow may receive a pension for the service of two husbands, but is not entitled to two pensions for the same time.

PENSION OFFICE, *November* 25, 1843.

SIR: In the case of Catharine Hartshorn, deceased, referred to in the enclosed letter, I have the honor to inform you that she was pensioned under the act of July 7, 1838, and was not, therefore, entitled to a pension under the act of July 4, 1836. The Attorney General's opinion is, that no one can receive the benefits of both those laws. I would respectfully refer you to his opinion, which will be found on pages 1206 and 1207, published in executive document No. 123, House of Representatives, 26th Congress, 2d session.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. JAMES M. PORTER,
Secretary of War.

As determined by the Attorney General, two pensions at the same time cannot be allowed to the same individual; but if the services of Mrs. Hartshorn's first husband (Norris) are such as entitled her to a pension under the act of 1836, had she first applied under that act, it should be allowed—the amount she has received under the act of 1838, being considered as so much on account of the pension under the act of 1836, and to be deducted in paying that pension.

J. M. PORTER.

WAR DEPARTMENT, *December* 13, 1843.

Surgeons entitled to only infantry captain's pay, under act of 15th May, 1828.

PENSION OFFICE, *February* 13, 1844.

SIR: I herewith return the paper from Mr. Green, which was referred to this office.

The letter from the Secretary of the Treasury to the War Department, in relation to the pensions of surgeons under the act of 1828, (a copy of which is enclosed) will show why they were paid at no higher rate than four hundred and eighty dollars per annum by the Treasury Department.

The act of 1828 embraces the cases of those officers only who were promised half pay under the resolution of Congress of the 21st of October, 1780; and it furthermore declares that no officer shall be entitled to receive a larger sum than the full pay of a captain in the line. No staff officer, except a surgeon, for staff service merely, was ever entitled to half pay or commutation, and no officer but a surgeon, for staff service, was ever entitled to a pension under the law of 1828. The army commissioner, at the close of the war, adjusted the claims of the officers of the medical staff, and allowed them the same amount of commutation that was allowed to captains of infantry. The act of 1828 gave to each surviving officer who had received commutation the same rate per month at which he was paid his commutation. If some officers are allowed a

higher pension, under the act of 1832, than they are entitled to under the law of 1828, it does not follow that surgeons can draw as much under one law as under the other. Under the law of 1828, a lieutenant, for his services as adjutant and lieutenant, receives only lieutenant's pay—three hundred and twenty dollars per annum; but under the law of 1832, if he served two years as adjutant, he receives four hundred and eighty dollars per annum.

The difference between the two acts is, that the law of 1828 allows for services in the line only, whereas the act of 1832 allows for staff service where the claimant performs such service.

The War Department, in fixing upon some rate of compensation, in settling the commutation claims of surgeons, rated them as captains of infantry. As such they were paid; and if the acts of the old Congress, which are referred to in the act of 1828, are to be considered any guide in settling claims under the law of 1828, then they cannot be paid more than what an infantry captain receives.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. James M. Porter,
Secretary of War.

The decision of the claims of the act of 1828 having been made long since, it will not be right to disturb them. The decision of the Commissioner of Pensions in Dr. Watrous's case is confirmed, and will govern analogous cases.

J. M. PORTER.

War Department, *February* 17, 1844.

Copy of the letter referred to in the Commissioner's letter of the 13th of February, 1844.

Treasury Department,
October 22, 1834.

Sir: In answer to the inquiry contained in Mr. Edwards's letter of the 17th instant, I have the honor to inform you that, by the resolves of the old Congress, surgeons were promised "the half pay of a captain," and that in the settlement made with them under those resolves, at the close of the war, their half pay was reckoned at the half pay of a captain of infantry, and the certificates which were issued to them, under the resolves granting commutation in lieu of half pay, were for five years' full pay as captains of infantry.

In determining the amount to be allowed to surgeons claiming the benefits of the act of the 15th of May, 1828, the department was guided by the construction which was found to have been practically given, and they were accordingly allowed the full pay of captains of infantry.

I have the honor to be, very respectfully, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

The Hon. Lewis Cass,
Secretary of War.

Rules relative to act of 30th April, 1844.

PENSION OFFICE, *May* 1, 1844.

SIR: I have the honor to enclose herewith a copy of the act of April 30th, 1844, making appropriations for the payment of pensions, &c., and respectfully ask your opinion and direction on the following points:

The law of July the 7th, 1838, and the amendatory act of August 23d, 1842, gave the widow a pension from the 4th of March, 1836, to the 4th of March 1841, notwithstanding the husband might, at the same period, have drawn a pension; but the act of April, 1844, prohibits the widow from drawing a pension for the same period during which her husband received his pension. The following questions arise:

1. If the husband was a pensioner, and died at any time between the 4th March, 1836, and the 4th of March, 1841, is not the widow entitled to that portion of the five years' pension which accrued between the day of his death, when his pension ceased, and the 4th of March, 1841?

2. If the husband died at any time between the 4th of March, 1841, and the 3d of March, 1843, is the widow entitled to the benefit of the law of March 3, 1843, which allows one year's pension to all those widows who were entitled to the benefits of the acts of July 7, 1838, and August 23d, 1842?

3. Does not the act of April, 1844, operate on all claims filed in the office prior to the passage of the act, as well as to all subsequent cases?

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

HON. WILLIAM WILKINS,
Secretary of War.

The three questions numbered 1, 2, and 3, within presented to me, I answer in the affirmative.

WM. WILKINS.

Rank of an officer dependant on his commission, and half pay dependant on his rank.

WAR DEPARTMENT,
June 15, 1844.

The cases of Peter Moore and Samuel B. Green—appeals from the decisions of Col. Edwards, Commissioner of Pensions.

The decisions of those two cases turn upon the same documents.

Both officers belonged to Col. Crockett's Virginia regiment during the war of the Revolution.

Peter Moore has been recognised as having been a *lieutenant*, but it is alleged he was a *captain*.

Samuel B. Green is acknowledged to have been an ensign, but it is concluded he was a lieutenant.

Against those claims there have been decisions made by my predecessors in office. By those decisions I am bound. I can discover no new evidence to change, in any essential way, the characters of the two cases.

I have no doubt, after an inspection of the two reports—the one by Col. Crockett, and the other by the "board of officers"—that Mr. Moore was *entitled to be promoted* to a captaincy, and Mr. Green to a lieutenancy, but they never were so promoted. The amount of "half pay" depends on the *rank* of the officer, and that rank depends on the *commission*. I confess it would be otherwise, if the very ingenious argument of the Hon. Mr. Davis should prevail—that a military commission descends upon the *next in rank*, by *operation of law*, as land *descends upon the heir* on *the death of the ancestor*. In this way, the officer, instead of a commission, would have to carry about him the statute law of Virginia and the rules of descent of military commissions. The actual possession of the commission is the one and the essential thing; but the *mere claim* to it is a very different matter, and cannot be overlooked in the administration of our pension laws.

The documentary paper, the report of "a board of officers," without date, and filed (without date, too,) by "Wm. H. Cabell, executor of Col. Read," I am willing to consider as authentic.

It is no evidence of the *promotions* having been *made*, or that commissions had issued, or that Moore and Green ever *performed the duties* belonging to the rank they now claim. It affords *evidence to the contrary*; because it expressly declares the object of the board to have been to "examine into the *claims* of the officers," &c. It recommends that "the regiment should be *continued* full to that number by *promotion* of the officers." It in fact recommends the *promotions then to be* made, which should have been made before. But there is no evidence that they were *then* made; for this report, so far from being considered as *final*, and as *making the promotions*, is marked or endorsed "In council, April 4th, 1782, *referred* to the commissioner of war." There this particular piece of documentary evidence ends, and the date of the reference, too, is *after* the disbanding of Crockett's regiment. There is no evidence that the recommendation of the board of officers was ever carried out. The justice *intended* to be rendered to those officers they never obtained. Instead of a confirmation of the report, and the issuing of the commissions, the matter was "*referred* to the commissioner of war."

Now, let us examine the other document, the "list of officers of the regiment, as they now (then) stand on 22d December, 1781."

This list is arranged in columns, and carries out the promotions of the officers.

Upon this paper *Peter Moore* is marked in '76, and commences as a private, and is carried out as a *supernumerary ensign*; and Samuel B. Green is also carried out in the last columns as a *supernumerary ensign*. It cannot be argued that this *return of Colonel Crockett* does not undertake to give the *promotions* of the officers named upon it; for, in many cases it gives the promotions regularly marked in the columns. For instance Colonel Crockett himself, in the first column, is marked "a private" in 1774, and his regular promotions carried out, and in the proper column he is stated to be a "lieutenant colonel." So of George Walls, William Cherry, Benjamin Kinley, John Kerney, &c. This last person commences as a private, and his promotions are carried out to a *captaincy*. Now, had *Moore* and *Green* been actually promoted, their advancement in rank would, like the others, have been carried out in the columns of this list.

Further. At the foot of this list there is a memorandum, dated on "*June* 17, 1782," signed by Colonel Crockett, which says, "the above mentioned subaltern officers were all *entitled to promotion*, agreeably to an arrangement lodged in the War Office at Richmond." This "arrangement" must be the report of the "board of officers," to which I have alluded, which did *not make* the promotions, but merely stated "the *claims* to promotions," which were *referred* to the War Office.

This "arrangement," or report of the board of officers, is without date; but I presume it must have been made at some time between the "2d September, 1781," the last date mentioned on it, and the 17th of June, 1782, the date of Colonel Crockett's memorandum at the foot of his return.

It appears, upon the face of Colonel Crockett's list of officers of his regiment, that the State of Virginia, like all other States, pursued the uniform practice of issuing *commissions to her* officers; and, of course, whatever may have been the *right* or admitted *claim* of the officer to higher promotion, in the absence of the commission, we are to presume that the admitted claim was never satisfied, and the rank never bestowed. The early laws of Virginia, referred to by the friends of the claimants, do not dispense with the *commission*. They merely declare who shall be *entitled* to promotion—how vacancies shall be filled; that there shall be regular advancement, &c., &c. The *rule* of promotion cannot stand in the place of the *actual* promotions, &c. There might be very many reasons and obstacles in the way of carrying out and executing the rule, and granting the commission and increased rank.

The State of Virginia appears to have taken the *claims* of her two citizens to promotion as the actual promotion itself, and adjusted the half pay upon equitable and liberal considerations. By such considerations, I regret to be obliged to say, we cannot be governed. In the adjustment of the claim, we are compelled to be guided by the actual *commissioned rank* of the officer, and not by the consideration that he was "entitled" to a rank which his State never bestowed upon him.

I am bound by the previous decisions of the department, which must stand in affirmance of the judgment of the Pension Bureau.

WM. WILKINS.

JUNE 15, 1844.

Act of June 17, 1844, *a continuation of act of 3d March*, 1843.

My construction of the act of Congress of June 17, 1844, entitled "An act to continue the pensions of certain widows," is such, that, in the case of the death of a widow between the 4th of March, 1844, and the 17th of June, 1844, her children will be entitled to the benefit of the law of the 17th of June, 1844. The effect of this act is to continue, without intermission, the law of 1843.

WM. WILKINS.

WAR OFFICE, *June* 20, 1844.

Rules of evidence under the act of June 17, 1844.

PENSION OFFICE, *June* 25, 1844.

In order to carry into effect the act of June 17, 1844, entitled "An act to continue the pensions of certain widows," those persons who have been pensioned under the law of March 3, 1843, will not be required to send a new declaration to this office. They will merely apply to the agent for paying pensions at the place where they have heretofore been paid, and comply with the instructions from the office of the Second Comptroller, a copy of which is subjoined.

Many persons, however, will be entitled to pensions under the act of June 17, 1844, who have not been, or cannot be, pensioned under the acts of July 7, 1838, and March 3, 1843, by reason of the proviso in the act of April 30, 1844, entitled "An act making appropriations for the payment of revolutionary and other pensioners of the United States for the fiscal year ending on the 30th June, one thousand eight hundred and forty-five," which declares "that no pension shall be hereafter granted to a widow for the same time that her husband received one." In all cases in which the husband was a pensioner, the widow's pension will commence on the day of his death, unless he died before the 4th of March, 1836, or between the 4th of March, 1841, and the 4th of March, 1843. If he died between the two last dates, the widow's pension will begin on the 4th of March, 1843; and if he died previous to March 4, 1836, the widow will be entitled to the whole if the pension allowed under the acts of 1838, 1843, and 1844, as if the act of April, 1844, had not passed.

No person can be pensioned under either of the aforementioned acts, who has not produced such proof as the regulations point out for claimants under the law of July 7, 1838; and every applicant will be careful in her declaration to set forth the particular law under which she claims.

J. L. EDWARDS.
Commissioner of Pensions.

A pensioner is not excluded from half pay under the act of July 5, 1832.

DEPARTMENT OF WAR, *July* 6, 1844.

SIR: Upon a full examination of the cases of Captain Thomas Minor's and Lieutenant Elliott Rucker's legal representatives, for half pay as officers in the Virginia State line, under act of 5th July, 1832, and the laws affecting the same, I have come to the decision that, in the adjustment of claims under said act of 5th July, 1832, no deductions should be made for any sums received by officers (or their widows or children) under the act of 15th May, 1828, or under the act of 7th of June, 1832. It is my opinion, therefore, that the certificate issued on the 20th April last, in favor of the administrator of Elliott Rucker, deceased, which was cancelled, should be reissued, and the amount therein certified to be due should be allowed; and I authorize you to issue a certificate accordingly.

The law of the 5th July, 1832, makes no allusion whatever to any

pension, nor does it exclude from its provisions any one who may be in the receipt of a pension from the United States.

I am, respectfully, your obedient servant,

WM. WILKINS,
Secretary of War.

To the COMMISSIONER OF PENSIONS.

The pension due a widow can in no case go to the executor or administrator, if there be a child or children.

WAR DEPARTMENT, *July* 18, 1844.

The policy of the act of Congress of the 7th of June, 1832, and of other pension laws, appears to be to keep from creditors, and from the seizure of the law, in any way, the gratuities or pensions conferred upon revolutionary officers and soldiers. The office practice of this department adopts and pursues the same policy.

The 4th section of the act of June 7, 1832, provides *especially* for the particular case therein stated. It goes no further than to mention the *particular instance* in which the widow is to receive a *fraction* of a semi-annual payment.

The law makes no such provision, nor any provision at all for the instance when the revolutionary pensioner dies, having neglected or omitted to claim and receive his pension for one full period of six months, or for a longer time, say for two years. This case is not met by the opinion of Mr. Attorney General Butler, given on the 28th of February, 1834. He confines that opinion to the question of right to the *fractions* of the pension, provided for by the 4th section of the law of 1832.

Captain Crawford, having received his pension under the act of 1828, died 6th of March, 1833, and left a widow and two children. His last semi-annual payment fell due 4th of March, 1833. In this case the widow was entitled to the proportionate amount of pay "which accrued" for the two days "between the last preceding semi-annual pay-days" and the death of her husband.

But Mr. Crawford had omitted to claim—because his claim was a doubtful one—his pension for two years previous to his death, as a staff officer, under the act of June, 1832, to which he was entitled by the construction given to the law by Mr. Secretary Spencer. These two full years were in arrear, besides the trifling *fraction* which was due and payable to his widow.

Mrs. Crawford, the widow, died on the 21st of May, 1839, never having claimed the pension omitted to have attracted the attention of her husband. His two children still survive.

Now, the question involved is, to whom is the two years' unclaimed pension payable?

In the paper submitted to me, dated the 1st of May, 1844, by Mr. Edwards, he states the practice to be to pay the amount to the executors or administrators of the widow, and not to the children; and that this practice is founded on the opinion of Mr. Butler, already referred to. I do not think that opinion justifies the practice. It is an opinion having ref-

erence to the particular case of a *fraction* of pension, as provided for in the 4th section of the law of 1832. It does not decide or give a rule in the present case; nor do I know that this particular case has been decided by any professional opinion.

The present sum due, not being a *fraction*, and never having been claimed by the widow in her life, should, in my opinion, go to the children of the revolutionary officer—the children of the man who performed the patriotic services—and not to the executors or administrators of the widow. This would, by legal process or proceedings, give the gratuity to her creditors, put it into the hands of strangers, and take it out of the family of the revolutionary patriot.

To show how unjust it would be to the children of a revolutionary officer to pay the arrears of his pension, in the present instance, to the executors or administrators of his second wife, let us look at it in one or two aspects.

In giving the arrears of the pension as *assets* of her estate, you apply them to the payment of her debts, whilst they are admitted not to be liable for the payment of the debts of the pensioner himself; and if she has no debts to pay, these *assets* would be distributed among *her children*, to the exclusion of those of her husband, who rendered the public services, the very consideration of his country's donation.

Again: Suppose the widow never had borne children to the revolutionary pensioner, but had given children to another husband; if the arrears are made assets in the hands of her executors or administrators, they would then pass and be paid over to the heirs of a stranger, probably the inhabitant of a foreign country during our revolutionary contest.

But all question about the arrears of pensions seems to be explicitly disposed of by Congress, in the enactment to be found in the 2d section of the act of 2d March, 1829. It is therein expressly declared that, in case of the death of the widow, "the arrears of pension due to the pensioner at the time of his death" shall be paid to his children, and those arrears can only go into the hands of executors or administrators in the cases where there are neither widow nor children.

WM. WILKINS.

To Mr. EDWARDS,
Commissioner of Pensions.

Rule respecting the amputation of a pensioner's limb.

WAR DEPARTMENT,
August 28, 1845.

The practice of the department to commence the increase of an invalid pension on the day when proof is made of an increase of disability is very proper, and is in conformity with the principles laid down in the invalid pension laws; and the reason of the law is, that it is presumed in all cases that the claimant will perfect his proof as soon as his disability is so increased as to render it proper to ask for an augmentation of his stipend. But in a case where it is very obvious that the pensioner has suffered an amputation of a limb from a wound received in battle, and

has, by reason of his helpless condition, arising from the loss of his limb, delayed his application, it is only just, and entirely consistent with the humane policy of the laws and a liberal construction of the same, that he should receive the pension, at the increased rate, from the time when the amputation took place. Let this be the rule, therefore, in future, in every case where a pensioner has, after being pensioned, suffered the loss of a limb on account of a wound while in the line of his duty as a soldier, receive the benefit of his increased pension from the time when the amputation was made.

W. L. MARCY.

Decision of the Secretary of War in the case of Elizabeth Cragie, deceased.

The law of 1840, chapter 17th, authorizes the payment to administrators and executors only in cases where there are children or a child; and then only to them as trustees, not as executors or administrators, for the purpose of being assets in their hands. There being no child or children of the deceased, in this case, the payment cannot be made to the executor.

W. L. MARCY,
Secretary of War.

APRIL 21, 1845.

Rules to be observed in drawing money from pension agents.

TREASURY DEPARTMENT,
Second Comptroller's Office, September 1, 1846.

The following instructions and forms, for keeping and stating accounts for settlement at the treasury, are prescribed to pension agents agreeably to a provision of the 9th section of "An act to provide for the prompt settlement of public accounts," approved, March 3, 1817.

Recent acts of Congress, on the subject of revolutionary and other pensioners, rendered necessary a revision of the instructions and forms heretofore issued from this office on that subject; in doing which, care has been taken to bring together the detached forms and instructions, which have been prescribed at different times, as occasion required, arranged in their proper order, altered to conform to existing laws, and so modified as to simplify the vouchers as far as a proper regard to the safety of the treasury, and the interest of the pensioners will admit.

They are intended to supercede all former instructions issued on the same subject, and are now officially communicated for your guide on the subject matter of them, after the first day of January, 1847.

Pensioners under the War Department.

The following order will be observed in the several documents composing the voucher, viz:

1st. When application is made for the payment of a pension, the first thing that seems necessary is, that the identity of the person, in whose behalf the pension is claimed, should be established. This must be done agreeably to the subjoined form, marked A; and for widows pensioned by the War Department, agreeably to form, marked E.

2d. Under the provisions of the acts of 6th April, 1838, and 23d August, 1842, where a pension has remained unclaimed, by any pensioner, for the term of *fourteen* months after the same became due and payable, it cannot be paid by the pension agent, but application therefor must be made to the treasury of the United States through the Third Auditor, if the pension certificate issued from the War Department, and through the Fourth Auditor, if it issued from the Navy Department. The usual vouchers will suffice, with the exception that additional proof of the identity of the pensioner will be required, according to form marked B. Each pension agent, immediately on the expiration of fourteen months, subsequent to each semi-annual payment, will certify to the office of the Second Comptroller a correct list, containing the name, rank, rate of pension, amount due, and time of last payment of each pensioner remaining unpaid on the roll of his agency, whose pension has been due and payable for the term of fourteen months prior to the date of such certificate. When, however, a new pensioner is placed on the roll, or an old pension is renewed, the fourteen months commences, running from the semi-annual payment next after the date of his, or her, pension certificate, and not from the commencement or renewal of the pension.

3d. When an attorney shall make application for a pension, *be the rank of the pensioner what it may*, he must deposite with you a power of attorney in his favor, duly acknowledged, and dated on, or subsequent to the day on which the pension claimed became due, and within ninety days of the time of his applying for payment, and also his own affidavit that said power was not given him by reason of any *sale*, *transfer* or *mortgage* of said pension; and the execution of the power must be in the presence of at least one witness, other than the magistrate before whom it is acknowledged. These papers must be made out in strict conformity to the subjoined form, marked C.

4th. In all cases of payments upon a power of attorney, the justice of the peace or magistrate before whom the power is executed, must have lodged with the agent the certificate of the clerk of some court of record, under seal of the court, that he is legally authorized to act as such; and also a paper bearing his proper signature, certified to be such, by the clerk of some court of record.

5th. It is advisable, and is so recommended, that pension agents procure and place in a book the signatures and seals of clerks of the different courts within their agency, who may be authorized to certify as to powers, the better to detect, by comparison of the signatures and seals, impositions that may be attempted.

6th. Under the provisions of the acts of 2d March, 1829, and 29th June, 1840, in case of the death of any pensioner, the arrears of pension due to him at the time of his death must be paid—

I. "To the widow of the deceased pensioner, or to her attorney" proving herself to be such before a court of record.

II. If there be no widow, then to the executor or administrator on the estate of such pensioner, for the sole and exclusive benefit of the children, to be by him distributed among them in equal shares; and the law of 1840 declares that the arrears of pension "shall not be considered a part of the assets of said estate, nor liable to be applied to the payment of the debts of said estate in any case whatever."

III. In case of the death of any pensioner who is a widow leaving children, the amount of pension due at the time of her death must be paid to the executor or administrator for the benefit of her children, as directed in the foregoing paragraph.

IV. In case of the death of any pensioner, whether male or female, leaving children, the amount of pension may be paid to any one or each of them, as they may prefer, without the intervention of an admisistrator. If one of the children is selected to receive the amount due, he, or she, must produce a power of attorney from the others for that purpose, duly authenticated. The oath of identity for the widow, or child, of a deceased pensioner must be according to form, marked F; and when they appoint an attorney, the power of attorney must be according to form, marked G.

V. If there be no widow, child, or children, then the amount due such pensioner at the time of his death, must be paid to the legal representatives of the decedent.

VI. When an executor or administrator shall apply for the pension due to a deceased person, he must deposite with you a certificate of the clerk of the court, judge of probate, register of wills, ordinary or surrogate, (as the case may be,) stating that he is duly authorized to act in that capacity on the estate of the deceased pensioner, and, if a male, that it has been proved to his satisfaction that there is no widow of the said pensioner living.

7th. In all cases of payments being made of moneys due a deceased pensioner, the original pension certificate must be surrendered, as evidence of the idenity of the person to whom the pension claimed was due, or other substantial evidence of such identity must be produced in case such certificate cannot be obtained for surrendry, and that due search and inquiry have been made for said certificate and that it cannot be found. The date of said pensioner's death must be proved before a court of record.

8th. A certificate of the facts proved must be obtained from the clerk of the court. It is not necessary for the clerk to give the evidence in detail, but only to state the facts that have been proved, and certify under his seal of office, that the testimony adduced was satisfactory to the court, according to form marked H; and in case a pension certificate is illegally withheld from a pensioner, he (or she, as the case may be) must produce evidence of identity and the facts, agreeably to form marked I.

9th. When a pensioner is placed under guardianship, the guardian applying for a pension must, in addition to the evidence of the pensioner's identity, deposite with you a certificate from the proper authority, that he is, *at that time*, acting in that capacity, and also satisfactory evidence that his ward was living at the date the pension claimed became due. The identity of the pensioner in such cases must be established under the form herewith, marked D.

10th. For all payments made by you duplicate receipts must be taken, (agreeably to subjoined form, marked K,) one of each you will forward with your quarterly accounts, to the Third Auditor of the Treasury for pensions under the War Department, and to the Fourth Auditor for pensions under the Navy Department; and in *all* cases where a pensioner or attorney makes a mark from inability to write his name, there must be a witness thereto, otherwise such receipt, or voucher, will not be admitted at the treasury.

Note.—By the second section of "An act making appropriations for the payment of the revolutionary and other pensioners of the United States," approved February 22d, 1840, pension agents are authorized to administer all oaths required to be administered to pensioners, attorneys of pensioners, or others, in the course of the preparation of papers for the payment of pensions under any of the laws of Congress; and to charge and receive the same compensation therefor as the laws of the State in which the agent is located allow to magistrates for similar services.

A.

STATE OF
county, } *ss.*

Be it known, that before me, a in and for the county aforesaid, duly authorized by law to administer oaths, personally appeared , and made oath in due form of law, that he is the identical person named in an original certificate in his possession, of which (I certify) the following is a true copy:

(*Here insert a copy of his certificate of pension.*)

that he now resides in , and has resided there for the space of years past; and that previous thereto he resided in ; and that he has not been employed, or paid, in the army, navy, or marine service of the United States from the day of to

Sworn and subscribed this
day of 18 .
before me.

Note.—The above deposition must be signed by the deponent.

Where the pension has been increased, since the certificate has been given, the magistrate will note that fact.

In the case of a *revolutionary* pensioner, the part of the above form which requires the pensioner to depose that "he has not been employed, or paid, &c.," is not required. The law of April 30, 1844, forbids the payment of an invalid pension to any person while in either of the military services, "unless the disability, for which the pension was granted, be such as to have occasioned his employment in a lower grade."

B.

STATE OF ,
county of , } 18

I , a magistrate in the county above named, do hereby certify that I have the most satisfactory evidence,* viz:

that , who has this day appeared before me to take the oath of identity, is the identical person named in the pension certificate, which he has exhibited before me, numbered , and bearing date at the War Office, the day of , 18 ; and signed by , *Secretary of War.*

Given under my hand, at on the day and year above written.

J. P.

STATE OF ,
county, } *ss.*

I , clerk of the court, of the county and State, aforesaid, do hereby certify that is a justice of the peace, in and for said county, duly commissioned and qualified; that his commission was dated on the day of , 18 , and will expire on the day of , 18 , and that his signature above written is genuine.

[L. S.] Given under my hand and the seal of said county, this day of , 18 .

Clerk.

C.

Know all men by these presents, that I , of (*a*) pensioner of the United States, do hereby constitute and appoint my true and lawful attorney, for me, and in my name, to receive from the agent of the United States for paying pensions in , State of , my pension from the day of 18 , to the day of 18 . Witness my hand and seal, this day of , 18 .

Sealed and delivered
in presence of } [L. S.]

---

* Here state what the evidence is; whether personal knowledge, or the affidavits of respectable persons, giving their names.

Note.—Where the pensioner is personally known to the agent, and he will certify to his identity, the above form (B.) may be dispensed with.

STATE OF , }
county, } *ss.*

Be it known, that on the of , 18 , before the subscriber, a in and for said county, duly authorized by law to administer oaths, personally appeared , above named, and acknowledged the foregoing power of attorney to be his act and deed. In testimony whereof, I have hereunto set my hand the day and year last above mentioned.

STATE OF , }
county, } *ss.*

Be it known, that on the day of , 18 , before me, a in and for said county, duly authorized by law to administer oaths, personally appeared , the attorney named in the foregoing power of attorney, and made oath that he has no interest whatever in the money he is authorized to receive, by virtue of the foregoing power of attorney, either by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person whatever.

Sworn and subscribed, the day and year last above mentioned.

Before me.

Note.—The above form of oath is *necessary* for the attorneys of widows pensioned under the laws of July 4, 1836, and July 7, 1838, and subsequent laws continuing their provisions. For other pensions, the old form of attorney's oath is sufficient; but as the above is valid in *all* cases, to prevent mistakes, its general adoption is advised.

Note.—This affidavit must be signed by the attorney.

(*a*) In this blank insert the word invalid, or revolutionary, as the case may be.

Note—Any other officer duly authorized to administer oaths, may be substituted for a justice of the peace.

D.

STATE OF , }
county, } *ss.*

Be it known, that before me, , a , in and for said county, duly authorized by law to administer oaths, personally appeared , guardian of , and made oath in due form of law that the said is still living, and is the identical person named in the original certificate in his possession, of which (I certify) the following is a true copy:

(*Here insert a copy of his certificate of pension.*)

That he now resides in , and has resided there for the space of years past, and that previous thereto he resided in

Guardian.

Sworn and subscribed this day of , 18 , before me.

E.

Form of an affidavit to be made by a widow placed on the pension-rolls of the War Department.

STATE [OR TERRITORY] OF , } ss.
County of , }

Be it known, that before me, , a , duly authorized by law to administer oaths, in and for the county aforesaid, personally appeard , and made oath in due form of law, that she is the identical person named in an original certificate in her possession, of which (I certify) the following is a true copy:

(*Here insert a copy of her certificate of pension.*)

that she has not intermarried, but continues the widow of the above-mentioned ; and that she now resides in , and has resided there for the space of years past; and that previous thereto she resided in ; of the truth of which statements I am fully satisfied.

Sworn to and subscribed this day of , 183 , before me.

Note.—The above deposition must be signed by the deponent.

—

[In cases where a widow was placed on the pension-roll under the act of March 3d, 1843, and *had surrendered her certificate* on the expiration of her pension previously to the renewal of widows' pensions by the act of June 17, 1844, the following form may be substituted for the above. But as widows who were never placed on the pension list prior to the act of June, 1844, whose claims have subsequently been admitted, will be furnished with pension certificates from the War Department, *they* will be required to set out a copy of their certificates in the oath of identity, agreeably to the foregoing form.]

—

$

United States of America.

STATE OF , } ss.
county, }

Be it known, that before me, a in and for the county aforesaid, duly authorized by law to administer oaths, personally appeared , and made oath in due form of law, that she is the identical person who drew a pension under the act of the 3d of March, 1843, on account of the revolutionary service of her husband, the late [here give the name and rank of the husband] at the rate of $ per annum; that she now makes this affidavit for the purpose of drawing a pension under the act of Con-

gress passed on the 17th of June, 1844, entitled "An act to continue the pensions of certain widows;" that she has not intermarried, but continues to be a widow; that she now resides in , in the county of , and State of , and has resided there for the space of years past; and that previous thereto she resided in .

Sworn to and subscribed this day of , 184 .

In presence of .

Before me

I certify that the above-named affiant is personally known to me, and that she is the same individual who drew a pension as stated by her in the foregoing affidavit.

Justice of the Peace, or other magistrate.

F

Oath of identity for the widow or child of a deceased pensioner.

STATE OF ,
county,

Be it known, that before me , a in and for the county aforesaid, duly authorized by law to administer oaths, personally appeared , and made oath in due form of law, that she (or he, as the case may be) is the widow (or son, or daughter, as the case may be) of , the identical person who was a pensioner, and is now dead, and to whom a certificate of pension was issued, which is herewith surrendered.

That the deceased pensioner resided in , in the State of , for the space of years before his death; and that previous thereto he resided in .

Sworn and subscribed this day of , 18 , before me

Note.—The above deposition must be signed by the deponent. Where the pension has been increased, since the certificate has been given, the magistrate will note the fact.

Note.—The oath of identity for the executor or administrator of a deceased pensioner may be in the foregoing form—substituting "executor" (or "administrator," as the case may be) for "widow," &c.

G.

Power of attorney for the widow or child of a deceased pensioner.

Known all men by these presents, that I, , of , in the county of , State of , widow (or child, as the case may be,) of , who was (*a*) pensioner of the United States, do hereby constitute and

appoint my true and lawful attorney, for me, and in my name, to receive from the agent of the United States for paying pensions in , State of , the balance of said pension from the day of , 18 , to the day of , 18 , being the day of his death.

Witness my hand and seal, this day of , 18 .

Sealed and delivered in presence of } [L. S.]

Note.—The forms of acknowledgment of the above power, and of the attorney's oath are the same as in form C. When one of the children is appointed by the others to receive the balance, the attorney's oath is not required.

(*a*) In this blank insert the word invalid, or revolutionary, as the case may be.

H.

Certificate of the court as to the death of a pensioner.

STATE OF , }
County of , } *ss.*

I, , clerk of the court of , holden at , in and for , do hereby certify that satisfactory evidence has been exhibited to said court that was a pensioner of the United States at the rate of dollars per ; was a resident of the county of , in the State of , and died in the , in the State of , in the year , on the day of ; that he left a widow [or no widow] (or child or children, as the case may be) whose name is (or are, as the case may be.)*

In testimony whereof, I have hereunto set my hand and affixed my seal of office, at , this day of , in the year of our Lord 18 .

[Seal of the court.]

Clerk of the .

I.

Evidence in cases where pension certificates are illegally withheld.

STATE OF , }
county, } *ss.*

Be it known, that before me, , a in and for the county aforesaid, duly authorized by law to administer oaths, per-

* In case the pension certificate has been lost, insert, immediately after the name, or names, of the widow, child or children, as the case may be, the following: "And that the pension certificate of said pensioner has been lost, and, after due search and inquiry therefor, it cannot be found."

sonally appeared , and made oath in due form of law, that he (or she, as the case may be) is the identical named in an original pension certificate now illegally withheld by

[Here state the facts respecting the detention of the pension certificate.]

that he (or she) is entitled to a pension of* dollars per month; that he (or she) now resides in , and has resided there for the space of years past; and that, previous thereto, he (or she) resided in .

Sworn and subscribed this day of , 18 .

Note.—The above deposition must be signed by the deponent.

—

STATE OF , } ss.
county, }

Conformably to the regulations of the War Department of the 27th of October, 1832, I, , a magistrate in the county above named, do hereby certify that I have the most satisfactory evidence, viz:† that , who, this day appeared before me to take the oath of identity, is the identical pensioner he (or she) declares himself (or herself) to be in the annexed affidavit; and I am also satisfied that the statement made by him (or her) in relation to the pension certificate is true.

Given under my hand at , the day and year above written.

I, , clerk of the court of county, certify that is a magistrate as above, and that the foregoing certificate, purporting to be his, is genuine.

In testimony whereof, I have hereunto affied my seal of office, and [L. S.] subscribed my name, this day of in the year .

Clerk of the court of county.

K.

18 .

Received of , agent for paying pensions, dollars cents, being for month's pension due to from the day of 18 , to the day of , 18 , for which I have signed duplicate receipts.

$

---

* This blank must be filled with the amount to which the pensioner is now entitled, which, in some cases, varies from that in the original certificate.

☞ The oath may be administered by any officer properly qualified to take affidavits.

† Here state what the evidence is; whether personal knowledge, or the affidavits of respectable persons—giving their names.

☞ The oath may be made before any officer duly authorized to administer oaths.

If the pension agent act as magistrate in the case, the certificate of the clerk of the court is not required.

PENSION OFFICE, *March* 9, 1848.

In order to carry into effect the act of Congress renewing the pensions of widows under the act of February 2, 1848, the applicant who may claim a pension, must make a declaration, under oath, before some magistrate in the county where she resides, which declaration must be duly authenticated. The official character and signature of the magistrate must be certified by the proper officer under his seal of office, and the magistrate must certify that the declarant is personally known to him.

J. L. EDWARDS,
Commissioner of Pensions.

DECLARATION

In order to obtain the benefits of the act of Congress of 2d February, 1848, *entitled "An act making further provision for surviving widows and soldiers of the Revolution.*

STATE, [TERRITORY, OR DISTRICT,] OF } *ss.*

On this day of personally appeared before the , of the , A. B., a resident of , in the county of , aged years, who being first duly sworn, according to law, doth on her oath, make the following declaration, in order to obtain the benefits of the provision made by the act of Congress, passed on the 2d February, 1848, granting pensions to widows of persons who served during the revolutionary war. That she is the widow of , who was a (here insert the rank the husband held in the army, navy, or militia, as the case may be, and the regiment, corps, or vessel, in which he served, and the annual amount of the pension which she received under the act of 17th June, 1844.)

She further declares that she is still a widow.

Sworn to and subscribed on the day and year above written, before

---

PENSION OFFICE, *August* 21, 1848.

The following regulations have been adopted by the Secretary of War with the approbation of the President of the United States, for carrying into effect the provisions of the act of the 21st July, 1848, entitled

---

NOTE.—It will be perceived that the act of the 2d February, 1848, provides as well for widows of officers and soldiers of the Revolution who may hereafter die, as for those who have already died, Many widows, therefore, will be entitled to the provisions of the act of 1848, who have not drawn, or been entitled to, any pension under any former law. They will vary their declarations to conform to the circumstances of their cases. If their husbands have been pensioned, they will state the fact, with such particulars in relation to his residence, and amount of pension, as the foregoing form directs.

If neither the applicant nor her husband has been pensioned, she will be required to make such proofs as the regulations require under the act of the 7th July, 1838.

"An act amending the act entitled 'An act granting half pay to the widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States,' in cases of deceased officers and soldiers of the militia and volunteers, passed July fourth, eighteen hundred and thirty-six."

1. All applicants are required to show, either by the official certificate or testimony of a commissioned officer, or the muster or pay-rolls, or some record evidence from the Adjutant General's Office, that the deceased officer or soldier, on account of whose service the pension is claimed, died of wounds received, or from disease contracted while in the line of his duty, and that he served either in Mexico, or at some post or station on the borders of Mexico. If he did not die in the service, it must be shown that he died while on his return to his usual place of residence in the United States, after having received a discharge upon a surgeon's certificate of disability incurred from wounds received or disease contracted while in the line of duty, or while on his march to join the army in Mexico, or at some post or station on the borders of Mexico.

2. The legality of the marriage, the name of the widow, with those of her children, who may have been under sixteen years of age at the time of the father's decease, with the State or Territory, and county in which she and they reside, should be established. The legality of the marriage may be ascertained by the certificate of the clergyman who joined them in wedlock, or the testimony of respectable persons having knowledge of the fact. The age and number of the children may be ascertained by the deposition of the mother, accompanied by the testimony of respectable persons having knowledge of them, or by transcripts from the parish register, duly authenticated. The widow, at the time of allowing the half pay, or placing her on the list for it, must show that she has not again married; and must, moreover, repeat this at the time of receiving each and every payment thereof; because, in case of her marrying again, the half pay to her ceases, and the half pay for the remainder of the time shall go to the child or children of the deceased widow. This may be done by the affidavits of respectable persons having knowledge of the case.

3. In cases where there are children, and no widow, their guardian will of course act for them, and establish their claims, as prescribed in the foregoing regulations, and receive their stipends for them.

4. The credibility of the witness must in every case be certified by the magistrate who may administer the oath; and the official character and signature of the magistrate must be certified by the proper officer, under his seal of office.

5. In every case the applicant, if a widow, must make a declaration according to the form annexed. If there be no widow, and the claim is made on behalf of orphan children, there must be a guardian appointed to act for them, and he must make a declaration, varying the form to suit the case.

J. L. EDWARDS,
Commissioner of Pensions.

DECLARATION

In order to obtain the benefit of the act of the 21st July, 1848.

STATE, [TERRITORY, OR DISTRICT] OF } ss.

On this day of , personally appeared before the , of the , A B, a resident of in the county , and State, [Territory, or District] of , aged years, who, being first duly sworn according to law, doth on her oath make the following declaration, in order to obtain the benefit of the provision made by the law of the United States, passed on the 21st of July, 1848: That she is the widow of , who was a in the regiment of United States ; that she was marrried to the said on the day of , in the year eighteen hundred and ; that her husband, the aforesaid , died on the day of at , in , in consequence of , and that she has remained a widow ever since that period, as will more fully appear by reference to the proofs hereto annexed.

Sworn to and subscribed on the day and year above written, before

[Magistrate's signature.] [Declarant's signature.]

☞ The official character and signature of the magistrate must be certified by the proper officer, under his seal of office.

PENSION OFFICE,
August 31, 1848.

The following rules of evidence will be observed under the law of the United States of the 29th July, 1848, entitled "An act for the relief of certain surviving widows of officers and soldiers of the revolutionary army."

1. Applicants must produce the best proof the nature of the case will allow, as to the service of the deceased officer or soldier, and the time when he died. It must be clearly shown in what troop or company, and regiment or corps, he served, and the grade he held. Proof as to service must be had, either from the records of the War Department, the muster rolls, the testimony of commissioned officers, or the affidavits of persons of known respectability. Every applicant will make a declaration according to the subjoined form, before a court (*a*) of record, setting forth, according to the best of her knowledge or belief, the name and rank of the person on account of whose service the claim is presented; the day, month, and year, (if possible,) when he entered the service, and the time when he left the same; and, if under more than one engagement, the claimant must specify the particular periods, and the rank and name of the officers under whom the service was performed; the town or county, and State in which he resided when he entered the service; whether he was draughted, was a volunteer, or a substitute; the battles, if any, in which he was engaged; the country through which he marched, with such fur-

(*a*) The declaration of the widow who claims must be made, in all cases, in open court, unless she is prevented by bodily infirmity from appearing before the court.

ther particulars as may be useful in the investigation of the claim; and, also, if the fact be so, that the claimant has no documentary evidence in support of the claim. From the best sources of information evidence must be derived as to the period of the death (*b*) of the officer or soldier.

2. The legality of the marriage, and the time when it took place, must be clearly established; and it must also be shown that the widow was never afterwards married. Record proof, as to the marriage, is always required, whenever it can be obtained. In a case where the town, county, parish, church, or family records afford no proof as to the period when the marriage took place, the fact must be established by the testimony of one or more respectable persons, whose credibility must be certified by the officer who may administer the oath. And, in order to prevent any mistake or improper use that may be made of the affidavit of an officer who may have the custody of records, from which he may make transcripts of the record in relation to a marriage, the officer who may give his affidavit, will, instead of copying the figures contained in the record, certify "that it is a true copy of the record, with the exception of the date, which is expressed on the record in fair legible figures, as follows:" [Here copy the day, month, and year, in letters and figures, in exact conformity with the original. Then let him add the following words:]

"I, A B, above named, depose and say, that I hold the office of in the county, town, and State aforesaid, and that the above is a true extract from the records of said , with the exception above named, as certified by me.

A B, *Clerk of the* ,
(*or rector, or pastor, as the case may be.*)

Sworn before me,

C D, *Justice of the Peace.*

And then will follow the certificate of the proper officer, under his seal of office, as to the official character and signature of the magistrate who may administer the oath. Where no record proof exists, other than the family record, the original record must be produced and sworn to by the person in whose possession it has been kept. (*c*)

3. In a case where the service of the deceased officer or soldier is clearly proved by record, or documentary evidence, or the affidavit of a commissioned officer, showing the grade and length of service of the deceased, the particulars in relation to the service are not required to be set forth in the claimant's declaration; but she must swear in positive terms, that she is the widow of the person whose service is thus proved. And no claim whatever can be sustained without positive proof of service.

4. In every case in which the deceased officer or soldier was a pensioner, the fact should be so stated, and the deceased pensioner so described, as to enable the department to refer immediately to the evidence upon which he was pensioned, and thus facilitate the investigation of the claim of the widow.

(*b*) It must, in all cases, be shown in what year the husband died. The testimony on this point must be positive, and the language must be free from all ambiguity.

(*c*) The family record must be sent to the Pension Office, if there be no other record, accompanied by the oath of the person in whose possession it has been kept. The person who may swear to the genuineness of the record, should give the name of the person in whose handwriting the record was made.

5. Applicants unable to appear in court, by reason of bodily infirmity, may make the declaration before required, before a judge or justice (*d*) of a court of record of the county in which the applicant resides, and the judge or justice will certify that the applicant cannot, from bodily infirmity, attend the court.

6. Whenever any official act is required to be done by a judge or justice of a court of record, or by a justice of the peace, the certificate of the secretary of State or of the Territory, or of the proper officer or clerk of the court or county, under his seal of office, will be annexed, stating that such a person is a judge, or a justice, of a court of record, or a justice of the peace, and that the signature annexed is his genuine signature.

7. The widows of those who served in the navy, or as Indian spies, will produce proof, as nearly as may be, conformable to the preceding regulations, and authenticated in a similar manner, with such variations as the different nature of the service may require.

J. L. EDWARDS,
Commissioner of Pensions.

DECLARATION

In order to obtain the benefit of the act of Congress of the 29th July, 1848.

STATE, [TERRITORY OR DISTRICT] OF }

On this day of , personally appeared before the of the , A B, a resident of , in the county of , aged years, who, being duly sworn, according to law, doth, on her oath, make the following declaration, in order to obtain the benefit of the provisions made by the act of Congress, passed , who was a [here insert the rank the husband held in the army, navy, or militia, as the case may be, and specify the service performed, as directed in rule numbered one of these regulations.]

She further declares that she was married to the said on the day of , in the year seventeen hundred and ; that her husband the aforesaid died on the day of ; that she was not married to him prior to his leaving the service, but the marriage took place previous to the second of January, eighteen hundred, viz: at the time above stated. She further swears that she is now a widow, and that she has never before made any application for a pension.

Sworn to and subscribed on the day and year above written, before

---

PENSION OFFICE, *March* 4, 1847.

In order to carry into effect the provisions of the ninth section of the act of the 11th of February, 1847, the Secretary of War has directed that the following regulations shall be observed.

(*d*) A declaration made before a justice of the peace cannot be admitted as evidence.

It will be observed, on reading the ninth section of the law companies these regulations, that there are six classes of persons provided for, viz:

1. Those non-commissioned officers, musicians, and privates of the regular army who have served, or may serve, in Mexico during the present war with that country, and who have served out the full period of their enlistment, and have been honorably discharged, or who may have been, or may be, honorably discharged before the expiration of the period of their enlistment, in consequence of wounds received, or sickness incurred, in the course of such service.

2. The representatives of such persons as are mentioned in the preceding paragraph, who may die in the service, or after being discharged, and before the issuing of a certificate or warrant.

3. Non-commissioned officers, musicians, and privates, who have been mustered, or may be mustered for twelve months, in any volunteer company, who have served, or may serve, until the end of the war with Mexico, and have been, or may be, honorably discharged by reason of the expiration of their enlistment, or in consequence of disability from wounds received, or sickness incurred, in said service.

4. The representatives, as designated by the act, of such volunteers as shall have died, or may die, in the service, or after having been honorably discharged, and before the issuing of a warrant or certificate.

5. Volunteers received into the service since the commencement of the Mexican war, for less than twelve months, who shall have marched to the seat of war, and shall have served until honorably discharged.

6. The representatives, as designated in the act, of volunteers received into the service for less than three months, and who may have died in the service, or after having been honorably discharged, and before the passage of this act.

In order to substantiate a claim for land or scrip, under the provisions of the foregoing section of the act, the persons described in the first class of these regulations will send to, or deposite with, the Commissioner of Pensions, Washington city, evidence of enlistment, service, and honorable discharge, as required by law. The best evidence on these points is held to be the original discharge of the applicant, which must, in all cases, be produced if in existence, accompanied by the applicant's affidavit (vide form marked A,) setting forth that he is the indentical person mentioned in the discharge; and in case of the loss or destruction of the discharge, the applicant will make oath to the fact, and produce the affidavit of some creditable witness in corroboration of his statement. The claimant must set forth the regiment and company to which he belonged; the time of entering the service; the time, place, and manner of his leaving the same, and he must show by the testimony of a commissioned officer that he was honorably discharged.

In case the claimant should desire scrip instead of land, he must make his request in writing according to the form marked B, accompanying these regulations.

The rules in the paragraphs immediately preceding are applicable to volunteers mentioned in classes Nos. 3 and 5.

The representatives of deceased soldiers and others, as mentioned in classes 2, 4, and 6, must produce evidence of the enlistment, service, and death of the original claimant. If the soldier was discharged, the dis-

charge must be produced, if in existence. If not, the same proof will be required as in other cases of lost discharges; and if he died in the service, the certificate of his captain or other officer who commanded the company to which he belonged, must be produced.

The persons who may claim must produce evidence of their relationship to the deceased, and show the degree of consanguinity they bore to him. This proof must be drawn in conformity with the form marked C, and may be taken before any court having probate jurisdiction. In case the father claims, he must show that no wife or child of the deceased is living; and in case the mother claims, she must show that neither the wife, child, nor father of the deceased is living.

J. L. EDWARDS,
Commissioner of Pensions.

Copy of the 9th section of the act of February 11, 1847, *entitled "An act to raise for a limited time an additional military force, and for other purposes."*

SEC. 9. *And be it further enacted*, That each non-commissioned officer, musician, or private, enlisted or to be enlisted in the regular army, or regularly mustered in any volunteer company, for a period of not less than twelve months, who has served or may serve during the present war with Mexico, and who shall receive an honorable discharge, or who shall have been killed or died of wounds received or sickness incurred in the course of such service, or who shall have been discharged before the expiration of his term of service in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate of warrant from the War Department for the quantity of one hundred and sixty acres, and which may be located by the warrantee, or his heirs at law, at any land office of the United States, in one body, and in conformity to the legal subdivisions of the public lands, upon any of the public lands in such district then subject to private entry; and upon the return of such certificate or warrant, with evidence of the location thereof having been legally made to the General Land Office, a patent shall be issued therefor. That in the event of the death of any such non-commissioned officer, musician, or private, during service, or after his discharge, and before the issuing of a certificate or warrant as aforesaid, the said certificate or warrant shall be issued in favor and inure to the benefit of his family or relatives, according to the following rules: first, to the widow and to his children; second, his father; third, his mother. And in the event of his children being minors, then the legally constituted guardian of such minor children shall, in conjunction with such of the children, if any, as may be of full age, upon being duly authorized by the orphans', or other court having probate jurisdiction, have power to sell, and dispose of such certificate or warrant for the benefit of those interested. And all sales, mortgages, powers, or other instruments of writing, going to affect the title or claim to any such bounty right, made or executed prior to the issue of such warrant or certificate, shall be null and void to all intents and purposes whatsoever; nor shall such claim to bounty right be in anywise affected by, or charged with, or subject to,

the payment of any debt or claim incurred by the soldier prior to the issuing of such certificate or warrant: *Provided*, That no land warrant issued under the provisions of this act shall be laid upon any lands of the United States to which there shall be a pre-emption right, or upon which there shall be an actual settlement and cultivation: *Provided, further*, That every such non-commissioned officer, musician, and private who may be entitled under the provisions of this act to receive a certificate or warrant for one hundred and sixty acres of land, shall be allowed the option to receive such certificate or warrant, or a treasury scrip for one hundred dollars; and such scrip, whenever it is preferred, shall be issued by the Secretary of the Treasury to such person or persons as would be authorized to receive such certificates or warrants for lands; said scrip to bear an interest of six per cent. per annum, payable semi-annually, redeemable at the pleasure of the government. And that each private, non-commissioned officer, and musician, who shall have been received into the service of the United States since the commencement of the war with Mexico, for less than twelve months, and shall have served for such term, or until honorably discharged, shall be entitled to receive a warrant for forty acres of land, which may be subject to private entry, or twenty-five dollars in scrip if preferred; and in the event of the death of such volunteer during his term of service, or after an honorable discharge, but before the passage of this act, then the warrant for such land, or scrip, shall issue to the wife, child, or children, if there be any, and if none, then to the father, and if there be no father, then to the mother of such deceased volunteer: *Provided*, That nothing contained in this section shall be so construed as to give bounty lands to such volunteers as were accepted into service, and discharged without being marched to the seat of war.

A.

STATE OF ;}
County of .}

On this day of , in the year one thousand eight hundred and , personally appeared before me, the undersigned, a justice of the peace for the county and above mentioned, who being duly sworn according to law, declares that he is the identical who was a in the company commanded by Captain , in the regiment , commanded by that he enlisted on the day of for the term of , and was discharged at on the day of by reason of

Sworn to and subscribed before me the day and year above written.

☞ See notes at head of next page.

☞ The discharge of a soldier, if he has one, must in every case accompany the above affidavit.

NOTES.

1. It is proper to state, for the information of claimants under the 9th section of the act of February 11, 1847, that, in every instance in which a volunteer soldier was discharged on a surgeon's certificate, that paper must be sent to the Pension Office, with the claimant's affidavit, unless it has been otherwise disposed of. If lost, he should state the fact under oath.

2. The official character and signature of the magistrate who may administer an oath, must be certified by the proper officer, under his seal of office. The certificate must accompany every case, and be attached to the paper on which the affidavit is written. No affidavit taken before a notary public can be admitted as evidence; except in the States of New Hampshire, Connecticut, Virginia, South Carolina, Wisconsin, and Indiana, in which States laws have passed giving such officers power to administer oaths for general purposes.

3. The relinquishment of the right to bounty land must be signed by the claimant, if he wishes to receive scrip in lieu of land, and the relinquishment must be witnessed by some one who writes a legible hand.

4. Volunteers in some cases have been discharged from the service without ever having received a certificate to that effect from the officer who discharged them. Such cases have occurred where an entire regiment has been mustered out of the service. In such a case the claimant must make the oath of identity required by the regulations, and add to the statement as to his service, the following words: "I never received any discharge. The regiment to which I belonged was mustered out of the service."

5. No assignment of land or scrip can be made until after a land warrant has heen issued from the Pension Office, or a certificate of scrip, as the case may be.

6 As there were some six months' volunteers, who did not march to the seat of war, it is indispensably necessary that every soldier who was so engaged, should produce the certificate of the commanding officer of the regiment or company to which helonged, showing that he was at the seat of war. The post to which the soldier marched should be mentioned.

B.

(DATE.)

SIR: I request that my claim to bounty land, under the ninth section of the act of the 11th of February, 1847, entitled "An act to raise for a limited time an additional military force, and for other purposes," may be examined; and if I am entitled to land, I wish to relinquish, and do hereby relinquish, my right thereto, and in lieu thereof to receive a treasury scrip for one hundred dollars.*

I am, respectfully, your obedient servant,

To the COMMISSIONER OF PENSIONS,
Washington city.

C.

It is hereby certified that satisfactory proof has been exhibited before the† for the county of in the State of by the affidavits of and who are persons entitled to credit, that and are the only surviving‡ children of

---

* Or twenty-five dollars, as the case may be.

† The evidence may be taken before any officer authorized by law to administer an oath for general purposes.

‡ If there be no children, and the father claims, the facts must be stated, and the form will be

who was a in the United States service.
In testimony whereof I have set my hand and seal of office this day of in the year .

—

Application of a widow in order to renew her pension.

To the Commissioner of Pensions:

The memorial of the undersigned, the widow of the late who was a in the navy of the United States, respectfully shows:

That her husband, the aforesaid entered the service of the United States in the year ; that, while in the said service, and holding the rank above mentioned, he departed this life, at* , on the day of , in the year ; that the undersigned was married to the said on the day of , in the year ; and in proof thereof, she refers to papers on file in the Pension Office, upon which she obtained a pension for five years. She therefore claims the benefits of the act of Congress of the 11th of August, 1848, granting pensions to the widows of officers, seamen, and marines, who have died in the service aforesaid; and she requests that her name may be inscribed on the roll of pensioners under that law who are paid at , in the State of .

Sworn and subscribed to before me, on this day of , in the year .

———

REGULATIONS RESPECTING NAVY PENSIONS.

The widow of a person rated as a "boy," may receive a pension in certain cases.

Navy Department,
April 29, 1841.

Sir: It can admit of no doubt that a person rated as a "boy" is entitled to a pension, if he be wounded or disabled during service in the line of his duty.

This seems decisive of the question submitted in your letter of the 19th inst.; for if he be neither "officer, seaman, nor marine," he cannot have

---

varied to suit the case; and if there be neither child nor father living, and the widow claims, the form will be so changed as to show the facts in the case.

☞ Under the act of May 27, 1848, brothers and sisters may claim, provided the soldier left neither father, mother, widow, nor child. The foregoing form will be varied to suit the case. If a father claims, he must prove by two credible and disinterested witnesses that he is the father, and that the soldier, his son, left neither widow nor child. If a mother claims, she must show that the soldier left neither father, widow, nor child. If a brother claims, he must prove that the soldier left neither father, mother, widow, child, nor sister, and that he is the only surviving brother. The evidence will be varied to suit the case, if more than one brother applies, or sisters and brothers, or a sister or sisters only. In every case it must be clearly shown that the persons who apply are the only heirs under the acts of February 11, 1847, and May 27, 1848.

*If at a navy yard, the fact must be stated, and the name of the navy yard; if on board of a vessel of war, the name of the vessel must be given.

☞ The official character and signature of the magistrate who may administer the oath, must be certified by the proper officer, under his seal of office.

a pension himself; and if he be either, then, by the express declaration of the first section of the act of 1837, his widow, upon his death, in the service) becomes entitled to a pension. No reason can be conceived, no rule of interpretation can be found, by which the terms officers, seamen, and marines, shall in the one case include a mariner rated as a "boy," and exclude him in the other. I have, therefore, no hesitation in giving an affirmative answer to your inquiry.

I regret that the pressing business of the department has delayed this written communication of what I verbally expressed to you.

I am, sir, very respectfully, your obedient servant,

GEO. E. BADGER.

J. L. EDWARDS, Esq.,
Commissioner of Pensions.

Regulation under 2d section of the act of August 16, 1841.

NAVY DEPARTMENT,
August 20, 1841.

SIR: Your letter of the 19th instant has been received.

The second section of the act of Congress, to which you have called my attention, is very obscurely worded, and I am by no means sure that I have been able to collect its true meaning.

The phrase "in service," seems to have been used instead of, and as equivalent to, "on duty," for, in any other sense, the whole section becomes unmeaning, as every officer, while he continues to belong to the navy, is in the service though he may not be on duty. Giving this sense ot the phrase, I am of opinion—

First. That no officer can receive at the same time pay as an officer on duty and as a pensioner; and,

Secondly. That officers who may be "waiting orders," or "on leave," or "furlough," can receive only so much on account of their pensions as, added to their pay when so "on leave," &c., will amount to the pay of their grade when "on duty."

Where, by the act of Congress of 1835, regulating the pay of the navy, officers are entitled to a higher rate of compensation when employed in a certain specified manner than when engaged in other duty, the rate of compensation of the latter is that which is referred to in this act, and is not to be exceeded by the aggregate of the pension and the pay while "waiting orders," &c.

For instance, a commander is entitled, when attached to vessels for sea service, to $2,500 per annum, and on other duty to $2,100. I am of opinion that such commander, when off duty, cannot receive more, including the pension, than $2,100 per annum, and so of every other grade.

The case of seamen and marines seem to present peculiar difficulties, and I regret the hard consequences to them of the decision I have been compelled to form. They cannot, when in service, receive more than their pay, because there is no discrimination by law between their compensation when on duty, and when unemployed. Hence it seems to follow that no seaman or marine, while in service and receiving pay, can receive any payment at all on account of a pension.

I am of opinion that all pensioners are entitled to be paid up to the passage of the law; that is to say, up to the 16th instant, just as they would have been paid had the act never been passed.

I am, respectfully your obedient servant,

GEO. E. BADGER.

J. L. EDWARDS, Esq.,
Commissioner of Pensions.

Respecting repeal of the act of March 3, 1837.

NAVY DEPARTMENT, *September* 2, 1842.

SIR: I respectfully submit the following as my views of the laws referred to in your letter of the 29th August, and in answer to the questions therein propounded:

1. I am of opinion that "the widows who have been placed on the pension-roll, under the act of March 3d, 1837," are to continue to the end of the late session of Congress.

2. I am of opinion that those widows who have applied for their pensions under the act of 1837, and who are "entitled to receive or make proof" of the same, are entitled to receive them up to the end of the late session of Congress.

3. I am of opinion that widows who have not actually applied, but who are entitled to "receive or make proof" of their claims, under the act of 3d March, 1837, are entitled to receive the same up to the end of the late session of Congress, notwithstanding the act of August 23, 1842.

It is to be remarked that the act of August 16, 1841, applies only to those who were *then* widows, and not to such as became widows between that time and the 23d August, 1842.

I am, respectfully, your obedient servant,

A. P. UPSHUR.

J. L. EDWARDS, Esq.,
Commissioner of Pensions.

Forms in invalid cases.

NAVY DEPARTMENT, *November* 24, 1842.

SIR: I have received your letter of the 22d instant, submitting for approval two forms, to be hereafter used in applications for invalid pensions.

The forms are approved, and will be adopted.

I am, very respectfully, your obedient servant,

A. P. UPSHUR.

J. L. EDWARDS, Esq.,
Commisisoner of Pensions.

Surgeons' ce. tificate in an invalid case.

(Date)

It is hereby certified that , a in the United States ship of war , commanded by , is rendered incapable of performing the duty of a , by reason of wounds or other injuries inflicted while he was actually in the service aforesaid, and in the line of his duty, viz :

By satisfactory evidence, and accurate examination, it appears that on the day of , in the year , being engaged*

and he is thereby not only incapacitated for duty aforesaid, but, in the opinion of the undersigned, is† disabled from obtaining his subsistence from manual labor.

Surgeon.

Assistant Surgeon.

Certificate of the commanding officer in an invalid case.

UNITED STATES SHIP ,
184 .

I hereby certify that , who was a on board of this ship, while under my command, and while engaged in his duty as a , was, in consequence of the following circumstances, so injured as to be prevented from any further performance of his duty as a , and I therefore deemed it proper that he should be discharged from the naval service of the United States. He was accordingly discharged on the day of , in the year 184 .

While he was‡

No claim now admissable under act of March 3, 1837.

NAVY DEPARTMENT, *October* 2, 1844.

SIR: Your letter of the 5th June was duly received, but, from some cause, has been overlooked.

The opinion of the Attorney General, of April 15, 1844, to which you allude, settles the question that the act of 1837 was repealed by the act of 1842. The claim of Price's children was presented, but not perfected,

---

* Here state, particularly, the duty in which the applicant for a pension was engaged ; the harbor, navy yard, river, bay, or ocean, where the ship was, and the time when the injury was received ; and give a particular description of the wound, injury, or disease, and specify in what manner it has affected the applicant so as to produce disability in the degree stated.

† The blank in the last line but one is to be filled up with the proportioned "degree" of disability ; for example : "three-fourths," "one-half," "one-third," &c., or "totally," as the case may be.

‡ Here state, particularly, all the facts as to the origin of the applicant's disability ; the duty in which he was engaged ; the particular circumstances which led to the injury ; the harbor, navy yard, river, bay, or ocean, where the ship was, and the time when the injury was received.

before the repeal took effect. This may strengthen the application to Congress, but the Commissioner of Pensions cannot act, because the law, under which these children would have been entitled to a pension, is repealed.

I am, very respectfully, yours,

J. Y. MASON.

JAMES L. EDWARDS, Esq.,
Commissioner of Pensions.

Act of 2d March, 1797, not in force.

PENSION OFFICE, *October* 31, 1844.

SIR: The Hon. F. O. J. Smith, of Maine, who is now in this city, has requested me to lay before you the case of Mrs. Clough, who claims a pension under the act of the 2d of March, 1799. That act was repealed on the 1st of June, 1800. No widow appears ever to have been pensioned under the act of 1799; and my opinion is that they are not provided for by the act. I enclose Mr. Smith's letter, and respectfully ask a return of it when you shall have decided on the case.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Hon. JOHN Y. MASON,
Secretary of the Navy.

Upon the facts stated, I cannot perceive that Mrs. Clough's claim is valid. The provision of a pension, in certain contingencies, constituted no contract with the seamen. It was gratuity, which Congress had the right to withdraw by repeal of the law granting it. Mr. Clough having received the injury after the repealing law went into effect, there is not legal authority to grant a pension under the act of 1799.

J. Y. M.

Regulations under act of March 3, 1845.

To the COMMISSIONER OF PENSIONS:

The memorial of the undersigned, the widow of the late , who was a in the navy of the United States, respectfully shows:

That her husband, the aforesaid , entered the service of the United States in the year ; that, while in said service, and holding the rank above mentioned, he departed this life, at* , on the day of , in the year ; that the undersigned was married to the said on the day of , in the year ; and in proof thereof, she refers to papers on file in the Pension

---

*If at a navy yard, the fact must be stated, and the name of the navy yard; if on board of a vessel of war, the name of the vessel must be given.

☞ The official character and signature of the magistrate who may administer the oath, must be certified by the proper officer, under his seal of office.

Office, upon which she obtained a pension for five years. She theref claims the benefits of the act of Congress of the 3d of March, 1845, gra ing pensions to the widows of officers, seamen, and marines, who ha died in the service aforesaid; and she requests that her name may be scribed on the roll of pensioners under that law, who are paid at , in the State of .

Sworn and subscribed to, before me, on this day of , in year .

Application of a widow who applies for a pension for the first time.

TO THE COMMISSIONER OF PENSIONS:

The memorial of the undersigned, the widow of the late , who was a in the navy the United States, respectfully shows:

That her husband, the aforesaid ente the service of the United States in the year ; th while in the said service, and holding the rank above mentioned, he parted this life, at* on the day of , in the year ; that the undersigr was married to the said on the day of , in the year ; and in proof ther she exhibits the following evidence: [Here describe the proof, whet cate, or the affidavit of a respectable witness.] She therefore claims benefits of the act of Congress of the 11th August, 1848, granting p sions to the widows of officers, seamen, and marines, who have died the service aforesaid; and she requests that her name may be inscril on the roll of pensioners under that law, who are paid at , in the State of .

Sworn and subscribed to before me, on this day of in the year

---

* If at a navy yard, the fact must be stated, and the name of the navy yard; if on board vessel of war, the name of the vessel must be given.

☞The official character and signature of the magistrate who may administer the oath n be certified by the proper officer, under his seal of office.

☞In no case can the claim be allowed, unless it can be clairly shown by the certificate navy surgeon, that the husband died of a disease contracted, or of some casualty, by drown or otherwise, or of an injury received, while he was in the line of his duty. The surg must make a particular statement of all the facts in the case, describe the disorder or injury, state also upon what particular duty the husband was engaged when the disability arose wl resulted in his death.

APPENDIX.

AN ACT granting five years' half pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regulars and volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the second section of the act entitled "An act amending the act entitled 'An act granting half pay to widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States, in cases of deceased officers and soldiers of the militia and volunteers,'" approved July twenty-first, eighteen hundred and forty-eight, shall be so construed as to embrace all widows and orphans of officers, non-commissioned officers, musicians, and privates, whether of the regular army or of volunteers, who have received an honorable discharge, or who remained to the date of their death in the military service of the United States, and who have died since their return to their usual place of residence, of wounds received or from disease contracted while in line of duty, subject to such rules, regulations, and restrictions, as the Secretary of War, by the third section of said act, is authorized to impose.

Approved February 22, 1849.